UNITED
NATIONS

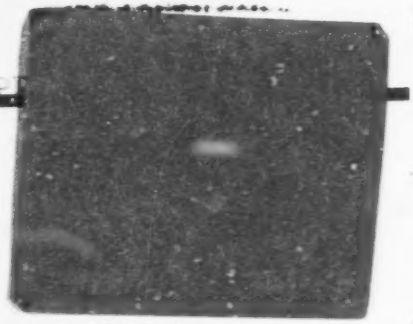
CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/298/Add.1
28 July 1997

Original: ENGLISH



COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Thirteenth periodic reports of States parties due in 1996

Addendum

Nepal*

[5 May 1997]

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* This document contains the ninth, tenth, eleventh, twelfth and thirteenth periodic reports, submitted in one document, due on 1 March 1988, 1990, 1992, 1994 and 1996, respectively. For the eighth periodic report of the Kingdom of Nepal and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/148/Add.1 and CERD/C/SR.787.

The annexes to the report submitted by the Government of Nepal may be consulted in the Secretariat's files.

The information submitted by Nepal in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the basic document HRI/CORE/1/Add.42.

GE.97-17523 (E)

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I. GENERAL

A. Nepal and its people

Physical and human geography

1. Nepal is a country lying on the southern slopes of the central Himalayas between China (to the north) and India (to the south). It is a landlocked country with an area of 147,181 km^2. Nepal is 885 km from east to west and 115 to 240 km from north to south. Within a brief span of 115 to 240 km the land rises from about 71 m above sea level to over 8,800 m above sea level and through a variety of climates ranging from the tropical to the arctic. Nepal is culturally and linguistically a highly pluralistic nation.

2. About 77 per cent of the land area of Nepal is covered by mountains and hills and topography is an extremely important feature when considering infrastructure and overall development efforts. Nepal can be divided into three areas: a low fertile strip running adjacent to India consisting of the forested churia foothills and the inner terai which rises to the Mahabharat Range (covering about 23.11 per cent of the area of the country); an area of hills between the Mahabharat and the Greater Himalayas, known as the mid-mountain range, which rises up to 4,500 m (roughly 41.68 per cent of the area of the country); and beyond that the Greater Himalayas themselves (35.21 per cent). Climatic conditions change dramatically from a humid tropical climate in the terai, to a subtropical climate in the hills and to a cool temperate climate in the mountains.

3. According to the 1991 census, the population of Nepal was 18.5 million. The estimate for 1995 was 20.7 million at a density of 126 persons per square kilometre. The population increased by nearly 3.5 million between 1986 and 1996 but the majority of the population still lives in small villages. The national diet consists of rice (where available), pulses and vegetables, which become sparser and more confined to root varieties in the high mountains.

Administrative, political and economic background

4. Nepal was unified in 1742 by the Gorkha King Prithvi Narayan Shah and the present King Birendra Bir Bikram Shah Dev is his direct descendant. From the mid-nineteenth century the country was ruled by the repressive Rana regime until the political movement of 1950 which led to the introduction of democracy and opened the country to foreign influence.

5. Nepal's brief experiment with democracy came to an end in the early 1960s with the imposition of the partyless Panchayat political system. In 1990 the Panchayat system was overthrown by a largely non-violent mass movement and a democratic constitutional monarchy was established under the Constitution of the Kingdom of Nepal 1990, which also adopted an egalitarian approach to deal with social problems.

6. After the successful culmination of the mass movement in 1990, the new democratic Constitution was promulgated with the widest possible participation of the people of Nepal, in whom the Constitution now vests sovereignty for the first time in the history of the country. The new Constitution also

guarantees basic human rights to every citizen, consolidates the institution of adult franchise, creates a constitutional monarchy and a system of multi-party democracy, and establishes an independent and competent judiciary with a view to transforming the concept of the rule of law into a living reality.

7. Elections to the directly elected 205-member House of Representatives, the lower house of parliament, were first held in accordance with the Constitution in 1991. The Nepali Congress Government held a mid-term election in November 1994, in which the Communist Party of Nepal (United Marxist-Leninist) won the largest number of seats (although no single party secured an absolute majority). The present coalition Government of three political parties led by the Nepali Congress Party was appointed in 1995 after the defeat of the year-old administration of the Communist Party of Nepal (United Marxist-Leninist). The Government is constituted under the Constitution of 1990 in accordance with which the country is governed.

8. Parliament consists of the House of Representatives and a 60-member National Assembly made up of people - including at least three women - appointed by the King, selected by the House of Representatives and elected by electoral colleges in the regions. At least one third of the present members of the House of Representatives are from ethnic minorities, including as many as 15 Tharu MPs. The Parliamentary Committee system includes, amongst many others, a Parliamentary Human Rights Committee and the Parliamentary Women's Rights Committee.

9. Nepal is divided for administrative purposes into five development regions: East, Central, West, Mid-West and Far West. There are 75 administrative districts within the 5 regions, each of which has a District Development Committee as the executive arm of local government. The smallest administrative areas in the country are the wards of the 3,995 Village Development Committees and 36 Municipalities. These local government bodies are elected by the adult population of the country and a strong base of democratic institutions at the local government level has been established to allow opportunities for all sectors of the population to participate in development and local-level decision-making processes.

10. Local government is subject to article 25 (4) of the Constitution of 1990 which declares that it shall be the chief responsibility of the State to maintain conditions suitable to the enjoyment of the fruits of democracy through wide participation of the people in the governance of the country and by way of decentralization.

11. During the period prior to the restoration of democracy in 1990, one Three Year Plan and five Five Year Plans were formulated and implemented. Evaluation of the major physical and economic indicators during the period presented a gloomy picture. With the restoration of democracy the perspectives of the popularly elected government have been based on two principal factors: to build on the positive aspects of the new aspirations and enthusiasm of the people, and to overcome the negative aspects of the legacy of economic depravity left behind by the Panchayat regime.

12. Since the restoration of democracy, Nepal has continued to depend to a great extent on foreign aid to meet its development policy and programmes. Even with large inflows of foreign aid for nearly half a century, development policies have been less effective than expected, economic growth has not increased and poverty is pervasive. Nepal has been classified as a developing country and is considered one of the poorest in the world. Per capita GDP in 1994 was estimated to be only US$ 202 and there has been only a marginal increase since the mid-1960s due to slow economic growth. From 1965 to 1990 real GDP grew only by 3.4 per cent annually. Growth in per capita GDP was even less, at 0.8 per cent per annum.

13. The people of Nepal struggle hard to make ends meet. About 70 per cent of production is of a subsistence nature and is not part of the cash economy. According to the 1991 census, about 81.3 per cent of the country's population are engaged in agriculture. The agriculture sector contributed roughly 42.4 per cent of GDP in 1993/94. With the population increasing at more than 2 per cent annually, landholdings are becoming smaller and threatening food security, especially in the hills and mountains. The level of industrialization is low even when compared with other LDCs. Cottage and small-scale industries have much potential for generating employment opportunities, and the Government has worked to ensure that that potential is realized following the restoration of democracy.

14. Nepal has recently become a centre of attraction for outside investors, not only for its abundant potential for hydropower development, but also as a tourist destination due to its unique natural beauty. The Government expects to earn larger amounts of foreign currency by the development of the water and tourism sectors.

15. Although the Government is committed to bringing about rapid industrial growth, inadequate infrastructure and inadequate incentives impose major constraints. A number of middle hill and mountain areas suffer from food deficit and off-farm employment is sought (often through seasonal out-migration) resulting in a sizeable proportion of seasonal as well as permanent female-headed households. The degradation of farm land due to population pressure exacerbates the food deficit resulting in increased out-migration of young people to work in cities, the southern plains region and abroad.

Social background

16. Under the Constitution of 1990 Nepal is formally designated a multi-ethnic and multilingual Hindu kingdom with freedom to all to profess their own religions and practices. This is the continuation of a process started at the time of unification of the country in the eighteenth century when Prithvi Narayan Shah ordained Nepal as a true Hindustan of 4 jats (castes), with 36 classes.

17. Socially, the caste system, which has its origin in Hinduism, still operates in Nepal. This system was originally based on division of labour, categorizing different people according to the work that they performed, but allowing those carrying out occupational trades to improve their situation by undertaking different types of work. Legally all forms of discrimination in

Nepal were fully abolished by the Muluki Ain (National Code) of 1963. This replaced the previous code based on the Manusmriti which had formalized and legalized caste discrimination.

18. The rationale behind the constitutional provisions reflects the reality that in all censuses since 1951, the Hindu population of Nepal has consistently been measured as constituting more than 86 per cent of the total. Buddhists constitute the next most populous religious group (7.78 per cent in 1991), followed by Muslims (3.53 per cent in 1991).

19. In different periods of the history of Nepal Kirants came from the north and Aryans came from south and west. In a way similar to the blending of Tibetan-Burmese and Indo-European languages which led to the emergence of the Nepali language, local people mixed with newcomers to form distinct Nepali races. The positive aspects of the race and caste differences which resulted are tolerance and social harmony.

20. The 1991 census report provides for the first time data on the ethnic/caste composition of the Nepalese population. Against this background, three main forms of social division deserve attention in Nepal. The first is between hill dwellers and people of the plains based on regionalism and ethnicity. The second is the split between various caste groups under Hinduism as elaborated by the memoirs of Manu in the "Manusmriti". The third is the religious split between Hindus and Buddhists, with Muslims and Christians also being represented in Nepal.

21. Such a broad categorization is not as simple as it looks, however, as there are altogether more than 100 distinct ethnic/caste groups in modern Nepal (with some estimates claiming as many as 167 groups). The 1991 census identifies more than 60 different groups but did not include some castes (such as Badhai, Dom, Halkhor, Koiri, Lohar, Mali, Pashi, and Tatma) and some ethnic groups (such as Byansi, Dura, Hayu, Khambu, Mech, and Pahari).

22. The peoples of Nepal speak at least 70 distinct languages. Whilst Nepali is the mother tongue of more than 50 per cent of the people, large numbers of people speak other languages including Maithili (11.85 per cent of the population), Bhojpuri (7.46 per cent), Tharu (5.37 per cent), Tamang (4.89 per cent) and Newari (3.73 per cent). In addition, there are more than 40 languages whose speakers together constitute less than 1 per cent of the total population in Nepal. With such a mix, no comprehensive study of the ethnic issues which have attracted attention in recent years has yet been possible.

23. In terms of social structure, caste people constitute 56.2 per cent of the total population. Ethnic groups make up 35.5 per cent and the rest are other minorities. Migration has played a major part in social structure. West-east migration after Gorkha unification and north-south migration after malaria control were particularly pronounced. Caste people outnumber ethnic groups in all three sectors of Nepal (the west (Karnali), the centre (Gandaki and Bagmati) and the east (Kosi) by a ratio of 56:30 with 13 per cent others). People of hill origin now constitute 83.1 per cent of the inner tarai and

30.9 per cent of the tarai population. By contrast, of 5.8 million people of lowland origin only 182,284 (or 3.1 per cent) are reported to be living in the highlands.

24. Nepal's ethnopolitics is different from that of many other countries. First, Nepal was never colonized. Second, it is the only Hindu kingdom in the world and gives constitutional protection to other religions and subcultures. Third, it has ushered in a democratic era on the back of a very fragile economic infrastructure. Fourth, geo-topography compels people to remain united in their social and cultural life, despite their particular subcultures. What is noteworthy in this broad cultural spectrum and multi-ethnic situation is that it is hard to demarcate boundaries between major and minor groups out of the 100 distinct ethnic/caste groups and about 50 languages of the population of 18 million. Despite such complexity and diversity, social conflicts are minimal and social harmony is well maintained.

25. Although it is difficult even to separate clans among Nepalese families, and although very few races have preserved their own economic life, social customs and cultural identity separate from other races in one place, there are some ethnic peoples who are still backward in modern economic, social and cultural terms. There are also some ethnic groups of people who cannot adequately look after their own interests or are in the primary stage of human development. Some peoples having a distinct cultural identity have not yet been able to adequately participate in government affairs. Such peoples include the Chepang, Raute, Kusunda, Jirel, Thami, Hayu, Pahari, Dhimal and Jhangad among the aboriginal and tribal groups; among the underprivileged groups that need encouragement and opportunities to participate in government affairs are the Dum, Mushar and Chama.

26. Whilst the State has categorized many underprivileged groups in Nepal as belonging to backward communities (it has been specifically mentioned, for example, that ethnic groups like the Praja, Jirel and Chhantel will be treated as socio-economically backward castes), the 1991 census suggests that at least 16 per cent of the population of Nepal belongs to an underprivileged group. This reality means that although outlawed since 1963 and made punishable by the democratic Constitution of 1990, untouchability is still practised in some sections of society.

27. In this context the Constitution of 1990 provides that the Government may take action to improve the situation of such groups and the provisions of article 11 allow such initiatives even though they may lead to disadvantaged groups being treated more favourably in some situations. Some of the directive policies of State action also make it clear that the advancement of disadvantaged groups must be of prime concern.

B. General legal framework within which racial discrimination is prohibited and human rights protected in Nepal

International instruments

28. In addition to ratifying the International Convention on the Elimination of All Forms of Racial Discrimination, Nepal is a State party to, amongst others, the Slavery Convention, the International Covenant on Civil and

Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

29. In the course of implementing its international commitments, Nepal has made many reforms to domestic legislation.

Measures taken to harmonize national law with the provisions of the Convention

30. There were some non-specific laws even before Nepal became a State party to the International Convention on the Elimination of All Forms of Racial Discrimination, such as the Assembly and Association Act 1945, the Civil Rights Act 1955 and the Muluki Ain (National Code) of 1963. The establishment of an independent judiciary under the Pradhan Nyalaya (High Court) Act 1952 aimed to ensure that people's rights could be secured by the new Government after the advent of democracy in 1951.

31. After 1971 further measures were enacted including Local Government and Decentralization Acts, Education Acts, Area Development Acts and statutes relating to security of the person (like the Human Trafficking (Control) Act 1986). Unfortunately, the nature of the governing regime prior to 1990 meant that the political will necessary for implementation was lacking.

32. Since 1990 Nepal has taken many appropriate legislative, administrative and other measures to implement the rights in the Convention. Several legal provisions have been repealed or amended, while some acts and regulations have been enacted so as to harmonize Nepalese law and policy with the provisions of the Convention. As a result of these and other initiatives, Nepal's record on human rights is recognized as being amongst the best in Asia.

The Constitution

33. The Constitution of 1990 seeks to protect all of those rights enumerated in the Convention. In addition, the Constitution spells out those directive policies and principles of the State in accordance with which Nepal must be governed. The political structures established by the Constitution provide for the maintenance of multi-party democracy on the basis of universal suffrage, and the provisions relating to the operation of the Supreme Court ensure that remedies are available for breach of any constitutional provision by Government, the executive or any individual.

34. Building on experience with the Muluki Ain in ending discrimination, article 4 of the Constitution of 1990 describes Nepal as "a multi-ethnic, multilingual, democratic, independent, indivisible, sovereign, Hindu and constitutional monarchical Kingdom". This complements article 2 which declares that "having common aspirations and united by a bond of allegiance to the national independence and integrity of Nepal, the Nepalese people irrespective of religion, race, caste, or tribe, collectively constitute the nation".

35. Although the Constitution officially designated Nepal a Hindu kingdom, other constitutional provisions guarantee that there is no discrimination against other religions and thus there is no mysticism about the secular character of the State. The Constitution protects the right of every person to profess and practise his own religion as handed down to him from ancient times, having due regard to traditional practices. Similarly, every religious denomination is guaranteed the right to maintain its independent existence and for this purpose to manage and protect its religious places and trusts.

36. The Constitution also recognizes all languages spoken in Nepal as national languages. Furthermore, the Constitution guarantees each community residing within the Kingdom of Nepal the right to preserve and promote its language, script and culture. In addition, each community has the right to operate schools up to primary level in its own mother tongue for imparting education to its children. Most significantly, no person shall, on the basis of caste, be discriminated against as untouchable, be denied access to any public place or be deprived of the use of public utilities.

37. The fundamental rights protected by the Constitution include the right to equality before the law (art. 11 (1)), the right not to be discriminated against on the grounds of religion, race, sex, caste, tribe, or ideological conviction (11 (2)), the right of access to all public places and utilities regardless of caste (11 (4)), rights to freedom of opinion, expression, peaceable assembly, association, unionization, movement, and employment (12 (2)), the right to information (16), the right to preserve and promote culture and language (18 (1)), the right to education in the mother tongue (18 (2)), the right to profess and practise any religion (19), rights against exploitation, forced labour and trafficking (20), the right to protection against exile (21), the right to privacy (22), and the right to a constitutional remedy (23).

38. The directive policies and principles are not enforceable rights because an individual remedy may not be invoked directly in the Supreme Court, but all government activity must be carried out in accordance with them as far as resources allow. The chief objective of the State is expressed as being to promote conditions of welfare based on the principles of an open society by establishing a just system in all aspects of national life (art. 25 (1)). As part of this process the social objective of the State is to develop, on the foundation of justice and morality, a healthy social life by eliminating all types of economic and social inequalities and by establishing harmony amongst the various castes, tribes, religions, languages, races and communities (art. 25 (3)).

39. To achieve national objectives in accordance with the directive principles, the Government of Nepal is committed to following policies which include: raising standards of living through education, health, housing and employment of people in all regions by equitably distributing economic resources (art. 26 (1)); strengthening national unity by promoting healthy and cordial social relations amongst the various religions, castes, tribes, communities and linguistic groups and by helping in the promotion of their languages, literatures, scripts, arts and cultures (art. 26 (2)); and

promoting the interests of economically and socially backward groups and communities by making special provisions with regard to their education, health and employment (art. 26 (10)).

40. The guarantee of basic human rights, multi-party democracy and the establishment of an independent judicial system are some of the unamendable features of the Constitution. The Constitution guarantees a fully representative system of government with an executive branch accountable to Parliament. Election laws ensure free and fair elections regulated by an independent Election Commission which has recently introduced a system of identity cards to ensure that all citizens are able freely to exercise their voting rights.

41. The judiciary, especially the justices of the Supreme Court, have been using the powers given to them in the Constitution to function as an independent and powerful entity. The Supreme Court has played a crucial role in deciding cases filed against the Government, and has helped to resolve the numerous constitutional issues which have arisen during the six years since the commencement of the new Constitution of 1990.

42. The Constitution restructured the judiciary from four tiers of judges to three to reduce the burden of delays in administering justice. By expanding the right of peoples to have easy access to the court system, the Constitution has helped to protect the rights and interests of minority groups and given birth to a healthy and rapidly growing system of public interest litigation.

43. Bodies established by the Constitution to regulate activity in public life make a significant contribution to ensuring that officials are independent and free from bias, and that their activities are monitored to avoid infringement of rights. The Public Service Commission, the Judicial Service Commission, the Commission for the Investigation of Abuse of Authority and the office of the Auditor-General are all designed to improve the work of Government and the executive and to limit abuse of authority. The instruction offered by the Administrative Staff Training College also fosters even-handedness in the execution of official functions and helps to protect the rights of those whose lives are affected by executive decision-making.

44. At the time the 1990 Constitution was drafted there were fears that it might erect a number of barriers prohibiting the exercise of fundamental rights on an ethnic, religious, linguistic and regional basis. It was argued that public interest provisos allowing the exercise of fundamental rights to be restricted in certain situations were directed towards eliminating all active ethnic and region-based ethnopolitical activities, and that requests to the Constitution Recommendation Commission for recognition of languages other than Nepali and religions other than Hinduism, and for the proportional representation of minority groups in the legislature, would be dismissed out of hand. Experience has proved such fears to be largely groundless.

45. The change in the political system in the country in 1990 was accompanied by many challenges as well as opportunities for the consolidation of democracy and the institutionalization of human rights. At this stage in

the democratic development of Nepal the country still lacks the technical, human and material resources needed to be able to begin adequately to address the growing expectations of the people.

Parliament and the executive

46. The work of members of Parliament in committees ensures that appropriate steps are taken to promote education, culture, health and social welfare, and that human rights are monitored and protected. The Parliamentary Foreign Affairs and Human Rights Committee and the Parliamentary Population and Social Committee are particularly active in this regard.

47. Since the restoration of democracy in 1990 the Government has been concerned to ensure that the work of individual ministries puts into practice a policy of promoting and protecting human rights. The work of ministries is regularly reorientated to reflect major human rights concerns in the country, and the Government has created new ministries whose work is designed to improve the human rights situation in the country - such as the Ministry of Women and Social Welfare, the Ministry of Labour, and the Ministry of Sport, Youth and Culture - wherever necessary.

48. The local government legislation of 1992 - under which 75 District Development Committees, 3,995 Village Development Committees and 36 Municipalities have since been established - allows local government bodies to appoint representatives of groups which would otherwise be unrepresented to ensure that all voices are heard at the local level.

49. To guarantee the fairness of local elections a new Local Body Election Act has been passed to regulate the election process, and elections are monitored by the impartial Election Commission set up under the Constitution.

The judiciary and the judicial process

50. All of the fundamental rights given under the Constitution are capable of being protected and enforced in the courts. The Constitution allows any citizen to exercise the right to a remedy by filing a petition in the Supreme Court (art. 88 (1)). This power allows citizens also to challenge government action which is inconsistent with the directive principles and policies. Upon determination of a petition the Supreme Court may issue any necessary or appropriate order to enforce rights and settle disputes (art. 88 (2)). These powers have been invoked in many situations in the years since the mass movement of 1990 and the Supreme Court has proved itself to be a champion of individual rights and democracy.

51. Leading judicial decisions have made a significant contribution to the protection of human rights. The Supreme Court has ruled, for example, that all discriminatory provisions of Nepali law incompatible with women's right to equality enshrined in the Constitution must be repealed. Rights to information were enhanced by landmark rulings during the disputes over the Indo-Nepal Tanakpur Treaty and the Arun III HEP project which made key documents more widely available. The courts have also reacted to a rise in public interest litigation by responding effectively to petitions brought by representatives of disadvantaged groups.

52. In a notable judgement on issues of caste discrimination the Supreme Court ruled invalid legislation which might have had the effect of denying entry to untouchable people to temples and other religious sites. The National Code provides that any person who practises discrimination based on caste or untouchability shall be liable to a fine of up to NRs 3,000 and/or up to one year in prison (sect. 10A). An explanation attached to this provision sought to establish that traditional caste discrimination in temples and religious sites would not attract punishment under the National Code. On an application by Man Bahadur Vishwakarma the Supreme Court ruled that this explanation was ultra vires as it was in conflict with article 14 of the Constitution.

53. The independence of the judiciary is guaranteed by the existence of the Constitutional Council which is responsible for appointing the Chief Justice (art. 117) and the Judicial Council which makes appointments to other judicial offices and regulates the activity of judges and other figures connected with the administration of justice. The Judicial Training College also helps to promote higher standards in those responsible for the administration of justice to ensure that individual rights are not denied by the legal system.

54. Access to justice for all is enhanced by the availability of legal aid to pay for legal representatives in all courts from the Supreme Court down to the lowest courts in the country. The activities of the Nepal Bar Association contribute to the coverage of this scheme.

55. A number of different statutes regulating the work of the courts in Nepal have helped to guarantee fair administration of justice for all.

Other instruments

56. A number of other acts and measures have been passed since the establishment of multiparty democracy in 1990 which help to implement Nepal's obligations under the Convention. Chief amongst these are the Social Welfare Act 1992, the Local Government Legislation of 1992 and the Children's Act 1992.

57. In 1997 the Government enacted the Human Rights Commission Act 1997 and is in the process of selecting suitable individuals to serve as commissioners. Parliament also passed the Government's Compensation for Torture Act 1997. Bills are currently before Parliament concerning women's rights, abortion, and reforms of the police.

58. The Social Welfare Act allows the Government to undertake any social welfare activities to provide services to make the backward classes of society economically and socially capable (sect. 2 (a)). The Act also allows the Government to make the necessary arrangements for the welfare of the backward classes and communities, as resources allow (sect. 4 (f)).

59. The Local Government Legislation of 1992 comprises the District Development Committee Act, the Village Development Committee (VDC) Act and the Municipality Act. A District Development Committee (DDC) is the executive arm of the District Assembly in each of the 75 Districts in Nepal. Under the scheme of the legislation each DDC is able to form subcommittees made up of

members of backward classes not represented on the DDC itself. Much of the work of development in the Districts is undertaken by VDCs and Municipalities. The education and culture functions of each such administrative body under the 1992 legislation oblige it to protect and promote different communities, religions, languages and cultures. In addition, in formulating plans VDCs and Municipalities are obliged to assign priority to programmes which yield direct benefits to backward classes and to the rural poor.

60. The Children's Act is a groundbreaking piece of legislation which provides a comprehensive framework for the protection of the rights of young people in Nepal. As part of that process the Act attempts to fulfil Nepal's obligations under the Convention on the Rights of the Child. As the children of minority and backward groups are most at risk from the effects of poverty, illiteracy and illness, the provisions of the Act have a proportionately greater impact on improving the situation of these children.

61. Other pieces of legislation which have the effect of improving the lives of disadvantaged minority and ethnic groups in Nepal include the Labour Act 1992 which lays down rules governing employment conditions and hours of work, the Development Banks Act 1996 which helps to make credit available for projects undertaken by people of specified classes in rural areas, and the Local Development Training Institute Act 1993 which provides for the operation of training programmes for people in rural communities.

The Eighth Plan

62. Since the early 1950s the Government of Nepal has been guided by the provisions of a series of national five-year plans. The current Eighth Plan was finalized in 1992 to cover the period between 1992 and 1997. The Plan is detailed and covers every aspect of the development of Nepal, but it repeatedly stresses the importance of equitable rural development for all the peoples of the country.

63. As part of the process of uplifting backward communities the Plan contains policies for special education for backward communities, priority for labourers from ethnic and tribal groups in government infrastructure plans, and targeted community development programmes for specific communities.

64. Since the Eighth Plan was published successive Governments of Nepal have frequently stressed their commitment to the advancement of all of the peoples of Nepal. In the budget provisions unveiled in July 1996 for the 1996-1997 financial year this commitment was boosted by the announcement of new funds to guarantee compulsory primary education in more than half of the 75 Districts of Nepal. At the same time, recognizing the fundamental part played in the development of Nepal by different languages, cultures, customs and systems inherited from the past, the Government committed itself to initiating an effective programme of study, research, conservation and promotion of cultural heritage, with further strengthening of programmes for oppressed and backward people.

Planned and existing mechanisms at the national or local level for coordinating policies relating to elimination of discrimination and for monitoring implementation of the Convention

65. The new Ninth Plan to cover the five years of development from 1998-2003 will build on progress made during the Seventh and Eighth Plan periods following the establishment of democracy. Enhanced programmes for the elimination of discrimination within the resources available to Government will help further to uplift disadvantaged groups in Nepal. This document is expected to be finalized in the summer of 1997.

66. The establishment of District Child Welfare Boards throughout Nepal in accordance with the provisions of the Children's Act 1992 will allow regional monitoring of the situation of children in the poorest and most marginalized ethnic communities in Nepal. The information gathered during the work of these committees will strengthen Nepal's ability to protect and promote the human resources of the future.

67. Departments and other sections within government ministries, such as the Women Farmers Development Division and others relating to women's issues in the Ministry of Women and Social Welfare, will continue to monitor the lives of women in rural communities. The focus provided by these bodies will allow the most disadvantaged elements of society to be identified and targeted.

Contribution of NGOs and international organizations

68. The activities of NGOs are crucial to the elimination of all forms of discrimination in Nepal. It would be impossible for the Government of an impoverished country like Nepal to claim that despite pressing economic problems and numerous social pressures certain sections of such a diverse society were never the victims of discrimination by others. Whilst the work of Government can mobilize resources to tackle the social problems which manifest themselves as discrimination, the assistance and vigilance of NGOs, especially those working with people on the margins of society, can achieve much.

69. There are many NGOs in Nepal today actively fighting discrimination in all its forms. International donors provide funding to some local NGOs and such support is actively encouraged by the Ministry of Women and Social Welfare. The Societies' Registration Act 1977 and the activities of the Ministry of Women and Social Welfare are designed to enhance the contribution of all NGOs as much as possible. The Village Development Committee Act 1992 and the Municipality Act 1992 require local government bodies in Nepal to include NGOs in local development activities and to promote their activities.

Activities of INGOs

70. As well as supporting the activities of local Nepali NGOs, international non-governmental organizations (INGOs) are responsible for planning and implementing their own projects for uplifting those on the margins of society.

71. Different INGOs from Japan, North America, Europe, Australia and many other countries have promoted successful INGO initiatives which, amongst other things, have made scholarships available to the children of underprivileged groups to attend formal schooling, increased living standards for the poorest of the poor, and made Government-run schools available in underprivileged areas.

Bilateral agencies

72. One of the more successful programmes for minority groups currently in existence is operated in Chitwan. In 1992 the Praja Development Programme was set up in one VDC. The results were encouraging and SNV, the Dutch development agency, was invited by the Government to take over the project and extend it. The new project should be executed in four VDCs with a population of 10,500 of the minority ethnic Chepang (or Praja) people. It is a general development project which aims to strengthen the social and economic situation to the population, including improvement of health care.

73. Other bilateral agencies from Japan, North America, Europe, Australia and many other countries are also actively working with underprivileged people.

Activities of United Nations bodies

74. The activities of some United Nations agencies - such as UNICEF - have had an undeniably positive effect on helping to eliminate discrimination against sections of society in Nepal. In general however, the need for Government to deal with the impacts of global events (such as currency devaluations, price hikes, the shift from subsistence agriculture to cash crops for export, an end to subsidies for farmers and other consequences) has limited the impact of such activities in social terms.

C. Dissemination of information on human rights issues in Nepal

Measures taken to make the principles of the Convention widely known

75. School essay, poetry and poster competitions are regularly held to increase understanding of human rights and discrimination in general. In addition, NGOs and INGOs hold frequent training courses and seminars, and prepare exhibitions for the general public.

Measures taken or foreseen to make the report widely available to the public

76. This report will be made available to the people of Nepal through the Ministry of Women and Social Welfare. It will be distributed to NGOs and INGOs, and it is anticipated that workshops and seminars will be run under the aegis of the Ministry. The mass media will be briefed on the contents of the report at the time it is made available.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

Special and concrete measures (economic, cultural, other) to ensure adequate development of racial groups

77. Some of the social programmes included in the current Eighth Five-Year Plan to promote the interests of backward as well as minority groups are as follows:

(a) Raute Rehabilitation Programme. The Rautes are considered the most backward ethnic group in Nepal. They are being rehabilitated through the joint efforts of governmental and non-governmental organizations. The programme, which began three years ago, will benefit 375 Rautes who will all be provided with houses.

(b) Bonded Labour Rehabilitation Programme. Bonded labour exists amongst underprivileged communities in many different districts of far west Nepal. In order gradually to eliminate bonded labour, the children of bonded labourers will be provided with education, both formal and non-formal, as well as vocational training. Twenty persons (mostly children) from each of the Districts of Banke, Dang, Bardia, Kailali and Kanchanpur in west Nepal, will benefit from this programme.

(c) Social security and development. Ten girls from backward communities in far west Nepal have been brought to Kathmandu and are being provided formal education to create public awareness about the Deuki system.

78. The individual programmes of different ministries, including the Ministry of Women and Social Welfare, are targeted at the most disadvantaged elements of society. Two specific approaches were adopted for the improvement of projects: (i) design of programmes specifically and exclusively for women and (ii) incorporation of Women in Development themes within existing development programmes and projects. Following the first approach projects of major significance were designed, e.g. credit and small farmer development. In addition, a women's agricultural unit was established and a Women Farmer Development Division was established. These initiatives aimed at women are representative of an approach which recognizes that women and children of minority and ethnic communities bear the brunt of discrimination in their daily lives.

79. During the eighth session of Parliament in 1995 the then Minister for Information and Communications made it clear that the five radio broadcasting centres in the country would be used for uplifting and protecting local folk literature and folk culture and art hidden from the mainstream, and stated that no discrimination would be made between remote and accessible areas in this provision.

80. Whilst the Government has undertaken all possible measures for the effective realization of the Convention by systematically addressing the problems, many obstacles and difficulties have been experienced in mobilizing and allocating sufficient resources to ensure that the economic and social

rights of minority and ethnic groups and others which have been the victims of discrimination are protected. Serious economic difficulties conspire to undermine commitments in the face of the need to respond to global economic pressure, including the heavy burden of foreign debt and debt services.

Special and concrete measures (economic, cultural, other) to guarantee full and equal human rights

81. The Constitution of 1990 makes clear that the chief responsibility of the State is to maintain conditions suitable to the enjoyment of the fruits of democracy through wider participation of the people in the governance of the country and by way of decentralization, and to promote general welfare by making provisions for the protection and promotion of human rights, by maintaining tranquillity and order in the society (art. 25 (4)). The Government presented a bill, which was passed by Parliament, for establishing a National Human Rights Commission. The Government is now selecting suitable people to serve as commissioners on the Commission set up by the Human Rights Commission Act 1997. Under the programme of eradicating the bonded labour system, the Government has allocated funds for the eradication of the Kamaiya system.

82. New environmental impact assessment guidelines promulgated by the Government stress that the rights of ethnic people likely to be effected by proposed development must be a prime consideration in the assessment process.

Article 3

Legislative, judicial, administrative or other measures to end segregation

83. The Constitution makes it clear that all the peoples of Nepal have the right to be treated equally and not to be discriminated against on the basis of caste. It is equally clearly stated that all have equal rights of access to public places. Chief District Officers in each of the Districts of Nepal have the responsibility of investigating claims of discrimination. In addition, VDCs and Municipalities are charged with protecting and promoting backward classes in their areas of administration. Against this legislative background the Government is committed to educating society so as to eliminate caste discrimination.

Article 4

Creation of offences of violence or incitement

84. The Assembly and Association Act 1949 creates offences of racial violence and incitement to racial hatred. The Act provides that if any organization acts with a view to incite hatred of any other group of people, the perpetrators shall be punished (sect. 5 (i)). The Act also provides that the making of threats which cause disorder is an offence (sect. 5 (j)). Most significantly, any act, speech, gesture or representation which suggests that any group of people is in any way inferior to another is punishable (sect. 5 (k)). Offences under section 5 of the Act are punishable by imprisonment for a period from six months to life and/or a fine of up to

NRs 2,000. The Act also gives the Chief District Officer in each District of Nepal the power to impose further restrictions on racially motivated activity as he sees fit.

85. Section 10A of the Muluki Ain (National Code) 1963 makes it an offence for any person to practise discrimination on the grounds of caste or untouchability. Such activity can result in a fine of up to NRs 3,000 and/or imprisonment for up to a year.

Imposition of ban on official promotion of discrimination

86. Rule 9 of the Broadcasting Rules 1995 (under the Broadcasting Act 1993) provides that materials which create animosity or spread communal ill-feelings among people belonging to different castes, communities, religions, classes, regions and sectors may not be broadcast.

Article 5

Protection of the right to equal treatment before tribunals or other organs administering justice

87. Legislative provisions. The Constitution protects, amongst others, the following rights: the right to equality before the law (art. 11 (1)); the right to equal protection from the law (art. 11 (1)); the right not to be discriminated against in the application of the general law on the grounds of religion, race, sex, caste, tribe or ideological conviction (art. 11 (2)); the right not to be discriminated against by the State on the grounds of religion, race, sex, caste, tribe or ideological conviction (art. 11 (3)); the right not to be discriminated against as untouchable on the basis of caste (art. 11 (4)); the right not to be denied access to public places on the basis of caste (art. 11 (4)); the right not to be deprived of the use of public utilities on the basis of caste (art. 11 (4)); and the right to a constitutional remedy for the enforcement of all fundamental rights (art. 23).

88. The Constitution also states that the chief objective of the Government is to promote conditions of welfare on the basis of the principles of an open society by establishing a just system in all aspects of national life, including social, economic and political life, while at the same time protecting the lives, property and liberty of the people (art. 25 (1)). A subsidiary principle is the social objective which is to establish and develop, on the foundation of justice and morality, a healthy social life, by eliminating all types of economic and social inequalities and by establishing harmony amongst the various castes, tribes, religions, languages, races and communities (art. 25 (3)).

89. Rights to equality are subject to the important priviso that the Government may make special provisions by law for the protection and advancement of the interests of women, children, the aged or those who are physically or mentally incapacitated, or those who belong to a class which is economically, socially or educationally backward (art. 11 (3)). Using this proviso, the Government has required Chief District Officers in each of the 75 Districts of Nepal to ensure that no ethnic person is exploited as a result of a legal transaction involving sale of land.

90. Section 3 of the Civil Liberties Act 1954 deals with the right to equality and section 4 prohibits any restrictions on any citizen on the basis of religion, race, sex or caste.

91. Implementation. The Government is committed to providing equal opportunities, whether they be in the field of education, health, or other fields, to all the people of Nepal. In a bid to provide basic needs in rural areas and improve living standards, the Government has allocated an additional NRs 500,000 (approximately US$ 10,000) per year for each VDC for the development of rural areas.

92. The Government, NGOs and international organizations are supporting backward communities in the fields of education, health care and nutrition in order to upgrade their living standards.

93. Discrimination based on race and caste has not yet been completely eliminated. If a case of racial discrimination is filed in the District Administration Office, however, action can be initiated against such activity.

94. Constraints. In some communities it is difficult for children of different castes to mix together because people are frequently not aware of their rights. Increased coverage of free primary education will help to improve this situation.

Protection of the right to security against bodily harm

95. Legislative provisions. The Constitution protects, amongst others, the following rights: the right not to be enslaved in any form (art. 20 (1)); the right not to be treated as a serf (art. 20 (1)); the right not to be forced into labour (art. 20 (1)); the right not to be the subject of trafficking (art. 20 (1)); the right to a minor not to be employed in any factory (art. 20 (2)); the right of a minor not to be employed in any mine (art. 20 (2)); and the right of a minor not to be engaged in any hazardous activity (art. 20 (2)).

96. The chapter on Human Trafficking in the Muluki Ain (National Code) 1963 prohibits the sale of human beings, making it a criminal offence. Under the Human Trafficking (Control) Act 1986, such an act is also punishable by a 15-year prison term.

97. The law prohibits engaging children and women in immoral activities. Section 16 of the Children's Act states that nobody should use or involve children in immoral acts or in pornographic acts (including photography). Section 14 of the Act prohibits parents from selling their children for making offerings to the gods during religious rites or rituals.

98. The Muluki Ain (National Code) 1963 makes it an offence for any person to kill, attempt to kill, or to incite another to kill a person (part 10). Punishment on conviction may lead to imprisonment for life or some lesser term. The Code further provides that an assault leading to wounding or other serious injury may incur a punishment of up to eight years in prison (part 9).

99. Implementation. Some NGOs are working to do away with the Deuki system, a tradition in west Nepal in which girls are forced into the flesh trade after being offered to a temple. A girl becomes a Deuki when she is bought from a poor family to be offered to the gods. Traditionally, after a girl becomes a Deuki she cannot marry and often engages in prostitution for economic support. The child of a Deuki, known as a Devi, is accepted in society, but finds it difficult to get married because of a traditional belief that some disaster will strike the husband's family. As a result, the Devis are also pushed into the flesh trade. There are more than 250 Devis scattered across Baitadi District in far west Nepal.

100. The Government has made scholarships available to Deukis for education in Kathmandu. Help is also being given for income generation and education for Deukis in Melauli village of Betaidi District with support from UNICEF. About 10 girls have been brought to Kathmandu and given an opportunity for formal education by the Government. The Government has also inducted Devis into the police force to give them an alternative livelihood. Feature films and telefilms have played a crucial role in creating awareness about the Deuki system. Some NGOs are providing shelter and training to girls who have returned or escaped from brothels in India.

101. The Badi caste, which traditionally earned their living as entertainers, dancing and making music, have now adopted prostitution as their profession. Through support from UNICEF and Nepali NGOs, Badis have taken to income-generating activities such as fruit and vegetable farming, skill development programmes, literacy classes and formal education.

102. Constraints. Despite existing legal provisions, it is known that sexual exploitation of adolescents and minor girls does occasionally take place. Due to an open border with India, it is extremely difficult to stop trafficking in children. It has been reported that some children are forced into begging or prostitution. The children of the poorest marginal groups are most at risk from these activities.

Protection of the right to participate politically on the basis of universal suffrage

103. The Constitution enshrines the principle of universal suffrage for elections to the House of Representatives (art. 45 (5)). Election of members to represent wards, VDCs, Municipalities and DDCs is also by universal suffrage.

104. In addition to the principle of universal suffrage, the local government legislation of 1992 allows each DDC, VDC and Municipality in Nepal to form subcommittees and an advisory committee according to need which may include backward classes not represented on the relevant local body.

Protection of other civil and political rights

Freedom of movement and residence

105. The Constitution protects, amongst others, the right to move freely throughout Nepal (art. 12 (2) (d)); and the right to reside in any part of Nepal (art. 12 (2) (d)).

106. Most rights protecting fundamental freedoms are subject to exceptions if national security or the public interest are threatened.

Right to international travel

107. There are no restrictions on the right of Nepali citizens to obtain a passport. With a very long, largely open border with India, Nepali citizens are able easily to cross land frontiers.

Right to nationality

108. Article 9 of the Constitution and section 3 of the Citizenship Act guarantee the citizenship of Nepali citizens. Nepali children become citizens at birth. A foreign woman who is married to any citizen and who has initiated proceedings to renounce her foreign citizenship may acquire Nepalese citizenship.

109. Efforts are being made to reduce the difficulties faced by people living in different regions, especially the terai and upper hill areas, in obtaining citizenship certificates due to insufficient substantiating documents. A recent government initiative led to the establishment of a high-level special committee to look into citizenship issues and address grievances at the local level. The committee's remit to investigate matters in 20 Districts will be expended over time.

Right to marriage and choice of spouse

110. There are no restrictions on the right to marriage or choice of spouse except those for the protection of children. The Muluki Ain (Civil Code) of 1963 states that marriage may be contracted according to will by mutual consent. A minimum age is prescribed below which a person may not marry and punishment is provided in situations where adults have involved children in illegal marriages.

111. Although historically Nepali society was not able to accept intercaste marriages, which were outlawed by the Civil Code of 1863, attitudes have changed significantly. Difficulties can still arise but examples are less frequent.

Right to inherit

112. The Constitution protects, amongst others, the right to acquire, own, sell and otherwise dispose of property subject to existing laws.

113. The scheme for inheritance of property is regulated by the Muluki Ain which provides that women may inherit only in limited circumstances. There is no restriction on inheritance by members of ethnic or minority groups or any other section of male society. The provisions of the Muluki Ain discriminating against women in matters of inheritance were challenged in the Supreme Court and the Government is reviewing its family law provisions on inheritance in accordance with the judgement given.

Right to freedom of conscience, thought and religion

114. The Constitution protects, amongst others, the right to practise religion handed down from ancient times (art. 19 (1)), and the right of each denomination to maintain its existence and manage its affairs (art. 19 (2)). Proselytizing is prohibited.

115. Children normally tend to follow the religion of their parents. Because of religious tolerance people of different faiths live in harmony with one another.

Right to freedom of opinion and expression

116. The Constitution protects, amongst others, the right to freedom of opinion (art. 12 (2) (a)), and the right to freedom of expression (art. 12 (2) (a)).

Right to freedom of peaceful assembly and association

117. The Constitution protects, amongst others: the right to assemble peaceably and without arms (art. 12 (2) (b)); the right to form unions (art. 12 (2) (c)); the right to form associations (art. 12 (2) (c)); the right to practise any profession (art. 12 (2) (e)); the right to carry on any occupation, industry or trade (art. 12 (2) (e)).

118. As far as the legality of associations is concerned, only an association whose members possess Nepalese citizenship certificates may be registered.

Protection of economic, social and cultural rights

Rights to work, etc.

119. Legislative provisions. The Constitution protects, amongst others, the right to practise any profession (art. 12 (2) (e)) and the right to carry on any occupation, industry or trade (art. 12 (2) (e)).

120. Under the Constitution the Government is obliged to follow the directive policy of raising living standards through the development of infrastructure by equitably distributing investment of economic resources for balanced development in the various geographical regions of the country (art. 26 (1)). This includes the employment of people in all regions of the country.

121. Another policy which the Constitution obliges the Government to follow is promotion of backward groups and pursuance of a policy which will help promote the interests of the economically and socially backward groups and communities by making special provisions with regard to their employment (art. 26 (10)).

122. Forced labour is prohibited by part 4 of the Muluki Ain (National Code) 1963.

123. Implementation. A key policy in the Government's Eighth Five-Year Plan is to set up a series of rehabilitation programmes for young women who have been compelled to take up socially degrading professions. These programmes will be designed to make the women self-sustaining through the learning of occupational skills such as functional literacy, nutrition and health education, vegetable farming and tree planting. The Plan also makes a commitment to organizing training programmes for labourers from backward ethnic communities in remote areas.

124. In addition, a high-level commission was recently set up, under the chairmanship of the Prime Minister, to create many new jobs at the local level.

125. Constraints. The State bureaucracy plays a vital role in the development process. It is also the largest employment sector in Nepal. Dominant social groups, however, have monopolized administrative posts whilst underprivileged ethnic groups are under-represented. The Government is working to overcome this imbalance.

Right to form and to join trade unions

126. The Constitution protects, amongst others, the right to form unions (art. 12 (2) (c)) and the right to form associations (art. 12 (2) (c)).

Right to housing

127. Legislative provisions. The directive policy in the Constitution of raising living standards through the development of infrastructure (art. 26 (1)) includes housing.

128. Implementation. As part of the activities of the Eighth Five-Year Plan, the Government undertook to arrange settlement for landless people and to provide basic services. The Plan aimed to rehouse some 25,000 families as part of wider poverty alleviation programmes.

Right to public health, medical care, social security and social services

129. Legislative provisions. The directive policy in the Constitution of raising living standards through the development of infrastructure (art. 26 (1)) includes health.

130. The directive policy in the Constitution of promoting backward groups obliges the State to pursue a policy which will help promote the interests of economically and socially backward groups and communities by making special provisions with regard to their health (art. 26 (10)).

131. While formulating their plans, VDCs and Municipalities must assign priority to programmes which yield direct benefits to backward classes and to the rural poor.

132. The Government may initiate programmes to make necessary arrangements for the welfare of backward classes and communities under the Social Welfare Act (sect. 4 (f)).

133. Implementation. One of the main objectives of the Eighth Plan is to improve the economic and social conditions of backward regions and to upgrade the socio-economic status of the rural population and deprived backward communities. Key policies for achieving this objective include launching special socio-economic programmes for the well-being of socially and economically weaker sections of the rural population and ethnic tribes.

134. The Government is committed to providing equal opportunities in the field of health to all the people of Nepal. In a bid to provide basic needs in rural areas and improve living standards, the Government has allocated an additional NRs 500,000 (US$ 10,000) per year for each VDC for the development of rural areas through the Village Self-Reliance Fund and other initiatives.

135. The Government, NGOs and international organizations are supporting backward communities in the field of health in order to upgrade their living standards.

136. Some of the social welfare programmes included in the current Eighth Plan period are:

(a) Social Welfare Centres. These are specifically meant for children of backward communities and ethnic groups. A total of eight centres will be established during the plan period. Seven centres, in which 208 children are provided food, shelter and education, have already become operational;

(b) Social Protective Scholarship Programme. This programme was set up to benefit children from backward communities who are engaged in anti-social activities. Scholarships will be given to about 4,000 children to enable them to receive education and various kinds of training. By 1993, 710 scholarships had already been distributed;

(c) Social security and development. Ten girls from backward communities in far west Nepal have been brought to Kathmandu and are being provided formal education to create public awareness about the Deuki system;

(d) Bonded Labour Reform Programme. The plan aims to give 20 bonded labourers and their families from the west education and vocational training for six months.

137. The Government is aware that it should provide children with better opportunities for education, health care and other basic services to enable them to grow into productive adults. The Children's Act and the Labour Act are to be effectively enforced and gradually improved to cover additional areas. For the protection of working children in the informal sector, suitable legislative provisions will be introduced. Special centres to impart vocational skills are to be established in each of the 14 zones of the country.

138. Studies and surveys are to be undertaken to collect relevant data on the actual status of working children, including bonded child labourers, so as to formulate realistic plans and programmes. Measures are to be taken to raise public consciousness of the exploitation of working children. NGOs and local communities will be encouraged to act as pressure groups.

139. The establishment of a social security system is one of Nepal's priorities.

140. Constraints. Climate is a major constraint on improving the health of underprivileged communities in Nepal. An example of this is in Mushar communities where life expectancy is only 42 years as against the 52-year national average. Local economic conditions also make health initiatives difficult and about 75 per cent of the children of the 6,000-strong Mushar communities of Sagarmartha, Koshi and Janakpur lack clothing because of the poor local economy.

141. Illiteracy and ignorance also compel people in underprivileged communities to live in unhygienic conditions, which further deteriorates health. Malnutrition, lack of family planning and limited access to clean drinking water means that people in some communities are prone to disease. The Government's development initiatives and education policies will help to overcome these problems over time.

Right to education and training

142. Legislative provisions. The Constitution protects, amongst other things, the right of each community to preserve and promote its language, script and culture (art. 18 (1)) and the right of each community to operate primary schools in its own mother tongue (art. 18 (2)).

143. The directive policy in the Constitution of raising living standards through the development of infrastructure (art. 26 (1)) includes education.

144. The directive policy in the Constitution of promoting backward groups obliges the State to pursue a policy which will help promote the interests of the economically and socially backward groups and communities by making special provisions with regard to their education (art. 26 (10)).

145. The education and culture functions of VDCs and Municipalities include an obligation to protect and promote different communities, religions, languages and cultures.

146. Implementation. The Government is committed to providing equal opportunities in the field of education to all the people of Nepal. In a bid to provide basic needs in rural areas and to improve living standards, the Government has allocated an additional NRs 500,000 (US$ 10,000) per year for each VDC for the development of rural areas through the Village Self-Reliance Fund and other initiatives.

147. The Government, NGOs and international organizations are supporting backward communities in the field of education in order to upgrade their living standards.

148. Under the budget for 1996-1997 compulsory free primary education will be implemented in some Municipalities and VDCs in 40 Districts. The Government is committed to make free primary education available to all and is targeting primary schools in all areas to improve coverage. Activities under the Basic Education Project supported by the Japanese Internation Cooperation Agency (JICA) and the World Bank, and the provision of free materials generally to government schools, will help to realize the goal of free primary education.

149. As language, culture, customs and systems inherited from the past are the valuable assets of nations, an effective programme of study, research, conservation and promotion of cultural heritage will be initiated from the next fiscal year (1996-1997). Programmes for oppressed and backward people will be further strengthened under the provisions of the budget for 1996-1997.

150. The national objectives of education as specified in the report of the National Education Commission in 1992 and endorsed by the Government include contributing to the full development of individual faculties and personalities, and helping persons and communities that lag behind in society to integrate with the national mainstream. To achieve these and other aims the educational policies in the Eighth Plan include: universalizing primary education; raising the literacy rate to 67 per cent by the year 2000; providing local bodies with the necessary authority to implement a free and compulsory education system; providing scholarships, awards and uniforms to girls so as to raise levels of enrolment and to reduce drop-out rates; emphasizing the non-formal education programme through governmental organizations as well as NGOs; strengthening special education programmes; upgrading the school curriculum so as to make it more appropriate to the situation of present-day Nepal; promoting art as well as cultural activities; encouraging research activities aimed at making education more relevant to the country's needs; and implementing the Basic and Primary Education Project in all districts.

151. New textbooks and a new curriculum are being developed for the country's primary schools to improve the quality of teaching and learning the primary schools system. New textbooks for up to class 3 have been introduced throughout the kingdom. All headmasters and teachers in the country for primary classes 1 through 3 have been given training in the new materials and curriculum. Since 60 per cent of the primary school teachers are untrained, this is often the only training they receive. Primary school buildings are being provided with assistance from JICA.

152. Secondary education is becoming more available to students completing primary school. A more comprehensive Secondary Education Development Project to promote reforms in all aspects of secondary education was initiated in 1993 with support from the Asian Development Bank.

153. Under the Education Regulation (1992), a National Council for Non-Formal Education has been constituted to formulate policies, coordinate programmes, carry out follow-up activities and supervise non-formal education. The Council, comprising representatives from various related ministries and NGOs, is chaired by the Minister of Education, Culture and Social Welfare.

154. Many governmental and non-governmental organizations are involved in the non-formal education (NFE) sector including: the National Council for Non-Formal Education; District Committees for the Development of Non-Formal Education; the NFE Unit of each District Education Office; Village Literacy Campaign Committees; and the NFE Unit in each Regional Directorate.

155. Vocational training is provided through different programmes run by the Ministry of Education and Culture, the Ministry of Labour and the Ministry of Industry. The technical schools under the Ministry of Education, Culture and Social Welfare provide training in various trades.

156. To uplift people living in 18 rural remote areas of Nepal, special provision has been made in the field of higher and technical education for the students coming from such areas by allocating 10 per cent of seats to them.

157. Constraints. Traditionally there has been little formal education in the different ethnic language groups of Nepal. Many of these groups do not have a written tradition. Teaching them in their own language, therefore, poses a problem. As the Government is constantly engaged in other serious economic and political issues, the needs of the minority groups have tended to receive little attention.

158. While the Constitution recognizes all mother tongues as national languages, the scale and cost of the task has made it impossible to arrange to teach them all in schools. The Constitution guarantees the right of indigenous people to run primary schools in their mother tongue but with the limited resources available to it the Government has not been able to help in the establishment of such schools.

159. Despite tremendous growth in the education sector, Nepal still faces many challenges. Children in remote areas do not have easy access to education, although primary education is free. The Government has attempted to identify such key problems within the formal system and is seeking to address them.

Right to equal participation in cultural activities

160. Legislative provisions. The Constitution protects, amongst other things, the right of each community to preserve and promote its language, script and culture (art. 18 (1)). The Constitution also obliges the State, while maintaining the cultural diversity of the country, to pursue a policy of strengthening national unity by promoting healthy and cordial social relations

amongst the various religions, castes, tribes communities and linguistic groups, and by helping in the promotion of their languages, literatures, scripts, arts and cultures (art. 26 (2)).

161. The Municipality Act has provisions to make arrangements for recreational places, such as playgrounds, museums, parks and libraries.

162. Implementation. The Eighth Plan made special provision for programmes for tribal and aboriginal groups in the hills and terai who had not benefited from general development programmes in the past. The Plan also recognized that for achieving growth with justice it was necessary to improve the living standards of the weaker sections of society as well as to make efforts to develop the language, culture, art and literature of tribal people in remote areas. In taking these steps, the Plan emphasized the need to make all programmes appropriate to the communities to which they were targeted.

163. The Cultural Corporation was mandated by the Plan to conduct activities relating to the search for, compilation and promotion of cultures and arts of different ethnic groups. As part of this process the Corporation organized live displays to promote different ethnic groups.

164. As language, culture, customs and systems inherited from the past are the valuable assets of nations, an effective programme of study, research, conservation and promotion of cultural heritage will be initiated from the next fiscal year (1996-1997). Programmes for oppressed and backward people will be further strengthened.

165. Constraints. What few recreational facilities are available are found only in urban centres. Very few cultural activities are organized in schools in rural areas. Due to abject poverty in rural areas and urban slums, most children find little time for leisure anyway. Even in urban areas, however, Municipalities have not been able to do much for children's recreation. There is a severe shortage of playgrounds, even in the capital. There are few parks and playing fields and, as the cities expand, fewer and fewer play areas are left for children.

Protection of right of access to any public place

166. Legislative provisions. The Constitution protects, amongst other things, the right not to be denied access to public places on the basis of caste (art. 11 (4)) and the right not to be deprived of the use of public utilities on the basis of caste (art. 11 (4)).

167. The challenge brought by Man Bahadur Vishwakarma to a provision of the Muluki Ain which sought to justify discrimination in access to religious sites is an excellent example of how this right has been protected in Nepal.

Article 6

Availability of effective protection and remedies in competent national tribunals to guarantee fundamental freedoms

168. Legislative provisions. The Constitution protects the right to a constitutional remedy for the enforcement of all fundamental rights (art. 23). Article 16 of the Constitution guarantees the right to demand and receive information on any matter of public importance.

169. The ability of the Supreme Court to issue any remedy for the enforcement of rights has been used on many occasions since 1990 and shows that rights can be effectively protected.

Availability of reparation and satisfaction for damage as a result of discrimination

170. The constitutional powers of the Supreme Court are not restricted by any limits on compensation which may be awarded where constitutional rights are shown to have been infringed. The Supreme Court has extremely wide powers to match its remedy to the wrong adjudged to have been done in a given situation and to provide satisfaction for that wrong.

Article 7

Education, cultural measures and information

171. Seminars are often held for such people as teachers, lawyers and journalists as a way of sending information on children's issues and the Convention back to local communities.

172. World human rights days are observed in Nepal with school events and education programmes. For the International Year of the World's Indigenous Peoples in 1993 the Government set up a national committee to advance the situation of groups of under privileged people in Nepal.

173. There are now many magazines and books which are published locally with information for and about people from disadvantaged groups in Nepal, including The Chhalphal Weekly, Thongtang (the first weekly in the Chepang language), Varta Saptahik and Yug Sambad Weekly.

174. Every day Radio Nepal broadcasts a children's programme, apart from programmes based on the school curriculum, but Nepal TV coverage is limited to the cities. The Government's decision to broadcast news on the radio in different languages spoken across the country should help people to become more informed.

Conclusion

175. Although Nepal has ratified the International Convention on the Elimination of All Forms of Racial Discrimination, implementation of the provisions of the Convention has not been as comprehensive as the Government is intending to achieve. Rural poverty, traditional social barriers and a

lack of awareness about rights are major constraints in implementing the provisions so as to secure an end to discrimination. The process of consolidating democratic institutions also sometimes slows down the process.

176. The plight of victims of discrimination is directly related to existing economic conditions prevailing in the community and the legacy of previous regimes. The Government recognizes the problems and is actively working to identify solutions but in the time available since the restoration of democracy in 1990 it has proved hard to tackle all potential causes of discrimination.

177. Underutilization of scarce resources, low literacy rates and a lack of adequately equipped institutions cause inefficiency, poor enforcement and implementation of laws, and limited participation by target groups. These have all been barriers to meeting planned targets. The Government is doing its best to ensure proper coordination and networking among programmes as well as to remove bureaucratic red tape which has limited action on some problems which need urgent attention.

178. Given the resource constraints of the Government, NGOs are increasingly encouraged to step in to promote the interests of the child for, as long as poverty looms large, discrimination and exploitation will continue to exist in one form or another.

179. Despite many challenges, notable achievements have been and are being made. The commitment to widening the coverage of primary education will raise levels of understanding across the country and will help to promote even greater tolerance. With this and other initiatives already in place, great progress has been made since 1990 in eliminating discrimination.

List of annexes

1. Laws and Regulations relating to child welfare and development

2. Basic indicators

3. Facts and figures on the ethnic make-up of Nepal

4. Information on certain tribal groups

5. References

UNITED
NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/298/Add.2
6 November 1997

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Thirteenth periodic reports of States parties due in 1996

Addendum

Lebanon*

[10 June 1997]

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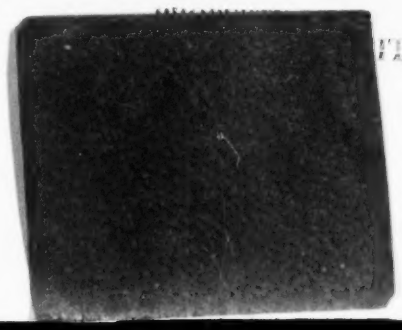
* This document contains the sixth, seventh, eighth, ninth, tenth, eleventh, twelfth and thirteenth periodic reports of Lebanon, submitted in one consolidated document, and which were due on 12 December 1982, 1984, 1986, 1988, 1990, 1992, 1994 and 1996 respectively.

For the second, third, fourth and fifth periodic reports of Lebanon, which were submitted in a single document, and the summary record of the meeting at which the Committee considered those reports, see documents CERD/C/65/Add.4 and CERD/C/SR.516.

The information submitted by Lebanon in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the core document HRI/CORE/1/Add.27.

GE.97-19052 (E)



INTRODUCTION

1. This report is submitted in conformity with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination.

2. Each State party has undertaken to submit to the Secretary-General of the United Nations, for consideration by the Committee on the Elimination of Racial Discrimination, a report on the legislative, judicial, administrative or other measures which it has adopted and which give effect to the provisions of the Convention.

Article 1

3. The following will be considered successively under this article, and as a supplement to Part I: (a) the community or religious system in Lebanon; (b) its conformity with article 1, paragraph 4, of the Convention; (c) the effect of the constitutional amendments of 21 September 1990.

A. The community or religious system in Lebanon

4. Modern Lebanon, within its present borders, became a unitary State in 1920, following the dismantling of the Turkish Empire, when the various religious communities that make up the Lebanese people joined forces.

5. The Mandate adopted on 24 July 1922 by the Council of the League of Nations under article 22 of the Covenant of the League gave France the Mandatary, the task of framing an organic law for Lebanon within three years. The Mandatary had to fulfil the following obligations, among others:

- Establish "a judicial system which shall ensure to natives as well as to foreigners a complete guarantee of their rights", on the understanding that "respect for the personal status of the various peoples and for their religious interests shall be fully guaranteed" (Mandate, article 6);

- Refrain from denying or impairing "the right of each community to maintain its own schools for the instruction and education of its own members" (article 8, third paragraph);

- Refrain from "all interference ... in the management of religious communities ..., the immunity of which has been expressly guaranteed" (article 9).

6. The "Legislative Commission" set up by the Mandatary in 1922 under the Mandate was composed of members designated on the basis of their membership of the various communities or religions. Similarly, the "Representative Council", which was established in 1922 and adopted the Constitution of 1926, was made up of representatives elected on the basis of the distribution of seats between the communities.

7. The Lebanese Constitution, promulgated on 23 May 1926, confirms the guarantees enjoyed by the communities. Article 9 provides as follows:

> "There shall be complete freedom of conscience. While acknowledging the Most High, the State shall respect all creeds and safeguard and protect the free exercise of all forms of worship, on condition that public order is not interfered with. It also guarantees that the personal status and religious interests of the people, to whatever creed they belong, shall be respected".

8. Under article 10:

> "There shall be no interference with public instruction as long as it is not contrary to public order and morals and does not affect the dignity of any of the religions. The communities shall be entitled to maintain their own schools, provided that they conform to the general State requirements relating to public instruction".

9. Prior to the constitutional amendments of 21 September 1990, article 95 stipulated that:

> "Provisionally, and in the interests of justice and harmony, the communities shall be equitably represented in public employment and in the composition of the Government, provided that the well-being of the State is not prejudiced thereby".

10. There are therefore two forms of confessionalism: confessionalism as to "personal status" and political confessionalism.

11. Confessionalism as to personal status means that everything affecting the family - marriage, filiation (including adoptive filiation, separation, divorce) and, to some extent, successions - comes under the laws drawn up by the various communities under the authority of the State. Family-related problems are settled by religious courts.

12. Political confessionalism means that political and administrative posts are distributed among the various communities. In addition to the above-mentioned article 95 of the Constitution, there is a constitutional tradition in accordance with which the President of the Republic, elected by the Chamber of Deputies, must be a Maronite Christian, the President of the Chamber of Deputies is elected by the deputies from among the Shi'ite Muslims, and the Prime Minister must be a Sunnite Muslim. The ministerial portfolios are also distributed on the basis of quotas for each community.

13. The Electoral Act provides that the parliamentary seats to be filled in each district are distributed among the various communities in the district according to specific quotas, based on their numbers.

14. The size of each community within the country's Muslim and Christian groupings is reflected in the number of seats in the Chamber of Deputies to which each is entitled under the Electoral Act. The 128 seats in Parliament are distributed as follows:

Muslims	
Sunnites	27
Shi'ites	27
Druzes	8
Alawites	2
Christians	
Maronites	34
Greek Catholics (Melchites)	8
Greek Orthodox	14
Evangelicals	1
Armenian Catholics	1
Armenian Orthodox	5
Minorities	1
Total	128

"Minorities" include Latins, Syriacs (Catholics or Orthodox), Chaldeans, Assyrians (formerly known as Nestorians), Copts and Jews.

15. It is important to point out that in each electoral district voters of a given creed vote not only for the candidate(s) of their creed, but for an entire list of candidates of various creeds, according to the seats to be filled, the aim being to safeguard and strengthen national unity.

16. The same proportions must be observed for nominations to posts in the administration. Since 1990 this rule has been restricted to high-level public service posts.

17. Some authors have described the community or religious system in Lebanon as "personal federalism" - and this in a State which, as we know, is unitary. In other words, instead of this federalism having a territorial basis, with each citizen answerable to the central State through a federated unit (province or canton), it is through his membership of a community that the Lebanese belongs to the State, regardless of his place of residence.

18. It would be difficult to specify the nature of these communities (see Kamal Hamdan, Conflit libanais: communautés religieuses, classes sociales et identité nationale, Paris, Ed. Garnier, 1977). Even though in principle each person is at liberty to belong to the creed he feels is in conformity with his religious beliefs, in the overwhelming majority of cases membership of a community is the result of being born into a family registered as being of a particular creed. The celebration of marriage before a given religious authority, which means the marriage is subject to its laws, does not necessarily imply faith in the religion in question or the daily observance of its forms of worship. The same goes for participation in public life or access to public service.

19. Are the religious communities in Lebanon therefore ethnic groups? Are the Lebanese classified according to their origins? Clearly, Armenians,

Syriacs (categories under the heading "minorities") and Alawites have specific origins. The term "Greek" (Orthodox or Catholic) refers to Byzantine forms of worship. In general, however, and even though the genetic particularities of each community have been identified as the result of a long practice of endogamy (see the study by Prof. Jacques Ruffie and Prof. Najib Taleb, Etudes hémotypologiques des ethnies libanaises, Paris, 1965), the communities should be classified as groups of families each with their own religious and cultural particularities (for the "cultural groupings" thesis), see Antoine Nasri Messarra, Théorie générale du système politique libanais, Paris, Ed. Cariscript, 1994, p. 25).

B. Conformity with article 1, paragraph 4, of the Convention

20. Is the community system described above an example of distinction based on descent or national or ethnic origin, which would have the purpose or effect of "nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other fields of public life", under article 1, paragraph 1, of the Convention?

21. With the above-mentioned reservations about equating Lebanese religious communities with ethnic groups, it should be recognized that the distinctions created by the religious system were not meant, in the eyes of the founding fathers of the Lebanese Republic, to constitute discrimination in the sense of article 1, paragraph 1, of the Convention, but were in fact more in keeping with the spirit of paragraph 4 of that article, which allows special measures to be taken to secure the progress or protection of certain racial or ethnic groups ... "in order to ensure [them] equal enjoyment or exercise of human rights and fundamental freedoms". The religious system was originally intended both to protect all the groups making up the Lebanese people and to ensure them all equal chances of development and progress.

22. The disadvantages of the system, from the standpoint of the Convention, are that it does not provide for persons who do not wish to disclose their descent, ethnic origin or religious faith in order to participate in public life or to found a family (civil marriage does not exist in Lebanon; marriages celebrated abroad are recognized by the Lebanese authorities but are subject to the law of the place where they were celebrated). Thus, what was originally viewed as a safeguard of the fundamental rights and freedoms of the groups that make up the Lebanese nation has for a long time been seen by some as an impediment to the freedoms of those individuals who do not wish to identify themselves with a particular group.

23. This is in keeping with article 1, paragraph 4, of the Convention, which makes the measures it authorizes provisional, and with article 95 of the Lebanese Constitution, under which, as early as 1926, the equitable representation of the communities in public employment and in the composition of the Government was to be transitional in nature.

C. The effect of the constitutional amendments of 21 September 1990

24. The document of national understanding of 22 October 1989, also known as the Taif Agreement (from the name of the city in Saudi Arabia where the

Lebanese deputies met to end a series of armed conflicts that had lasted 16 years), called for the step-by-step elimination of political confessionalism. This document resulted, inter alia, in amendments to the Constitution, which were promulgated on 21 September 1990. Paragraph 4 of the new Preamble adopted on that date provides for the gradual elimination of political confessionalism. The new article 95 states:

> "The Chamber of Deputies, elected on the basis of equality between Muslims and Christians, shall take appropriate measures to eliminate political confessionalism, according to a step-by-step plan. A national committee shall be established, under the presidency of the President of the Republic and comprising, in addition to the President of the Chamber of Deputies and the President of the Council of Ministers, eminent political, intellectual and social personalities.
>
> "The mandate of this committee shall be to study and propose means of eliminating confessionalism and to submit them to the Chamber of Deputies and the Council of Ministers, and also to continue execution of the step-by-step plan."
>
> "During the interim period:
>
> "(a) The communities shall be equitably represented in the formation of the Government.
>
> "(b) The rule of confessional representation is abolished. It shall be replaced by specialization and competence in the public service, the magistrature, the military and security institutions, and public and mixed undertakings, in conformity with the needs of national understanding, with the exception of first-category or equivalent functions. These functions shall be shared equally between Christians and Muslims, and no function shall be reserved for a particular community, in accordance with the principles of specialization and competence."

25. There is still resistance to the elimination of confessionalism, even in its political dimension, as many people have tended to view the system as a means of securing civil peace among the Lebanese. Elimination will have to be effected gradually. The educational role of the Government, which must adopt a modulated stance, should not be overlooked. In an interview published on 26 May 1997, Mr. Rafic Hariri, the Lebanese Prime Minister, summed up the Government's position as follows: "There will be no question of abolishing the communities, but a political class that is national and no longer confessional must be created, while parity is maintained between Christians and Muslims. Numerical equality must be maintained between Christian and Muslim deputies, as this is necessary for national stability, and the present status of the leaders must be maintained: the Head of State must remain a Maronite, the Head of Government a Sunnite, and the Hhead of Parliament a Shi'ite."

Article 2

26. As stated in the updated core document of Lebanon (HRI/CORE/1/Add.27/Rev.1), treaties ratified or acceded to by Lebanon become part of internal law upon the exchange or deposit of the instruments of ratification or accession. Those provisions which are sufficiently specific and concrete will be implemented immediately. Lebanon's commitments under paragraphs 1 (a) and (b) therefore form part of Lebanese positive law and are in fact implemented in full. Lebanon engages in no act or practice of racial discrimination against persons, groups of persons or institutions on its territory or abroad. National and local public authorities and institutions act in conformity with this obligation. The State does not sponsor, defend or support acts or attitudes of racial discrimination by any person or organization.

27. Concerning article 2, paragraph (c), reference should be made to the step-by-step elimination of the political confessionalism mentioned under article 1, if confessionalism in fact constitutes or leads to discrimination on grounds of descent or ethnic origin.

28. Paragraph (d), on the prohibition of racial discrimination by any persons, groups or organizations, has not had to be implemented.

29. With regard to paragraph (e), and with the same reservation as that expressed above on equating religious communities with ethnic groups, a measure adopted by the Lebanese legislature concerning general elections should be cited. Pending the elimination of political confessionalism - which, as previously stated, is called for under new article 95 of the Constitution - and in order to strengthen national unity, the principle of the extended electoral district has been adopted. As the country is divided into six Mohafazat (governorates), each comprises a sufficiently broad spectrum of creeds. Lebanese citizens are thus invited to vote not just for the candidates of their creed as in the past, but for other candidates as well.

30. Article 2, paragraph 2, concerning special measures in the social, economic, cultural and other fields in favour of certain racial groups or individuals belonging to them, has not had to be implemented.

Article 3

31. Lebanon has always condemned racial segregation and apartheid. It severed diplomatic relations with South Africa while that State was practising apartheid, sacrificing its economic interests vis-à-vis that country, where numerous Lebanese live.

Article 4

32. At no point in its history has Lebanon promoted or permitted the propagation on its territory of theories based on the superiority of a race or a group of persons of a particular colour or ethnic origin. During the Second World War, it made political choices that demonstrated its tradition of racial non-discrimination.

33. Under article 317 of the Criminal Code, "any act, written word or statement whose object or effect is to excite religious or racial hatred or to promote dissension between the communities or different elements of the population shall be punishable by a prison term of one to three years and by a fine of 100,000 to 800,000 Lebanese pounds ...". The court may also order the judgement to be published.

34. Article 318 imposes the same penalty on "any person who belongs to an association founded for the purposes mentioned in the previous article". For an officer of such an association, the prison term may not be less than one year and the fine not less than 100,000 Lebanese pounds. The association will also be disbanded and its assets confiscated.

35. The legal provisions governing the print and broadcast media prohibit any publication or broadcast liable to give rise to religious or racial fanaticism.

Article 5

36. Paragraph (c) of the Preamble added to the Lebanese Constitution on 21 September 1990 provides that "Lebanon is a democratic parliamentary Republic, based on respect for public freedoms, foremost among which is freedom of opinion and belief, and on social justice and equality of rights and obligations among all citizens, without distinction or preference".

37. Chapter 2 of the Constitution, entitled "The Lebanese, their rights and their obligations", provides in article 7 that "All Lebanese are equal before the law. They shall enjoy equal civil and political rights and be equally bound by public responsibilities and duties, without any distinction".

38. It is true that, as in many Constitutions, the affirmation of equality of rights and obligations applies to citizens and not to men and women in general. However, no provision of Lebanese law distinguishes between races or individuals on the grounds of colour or of national or ethnic origin. As stated in the first part of this report, the Preamble to the Constitution reaffirms Lebanon's attachment to the Universal Declaration of Human Rights.

39. There are more than 400,000 Palestinian refugees in Lebanon (nearly 20 per cent of all inhabitants), as well as Syrian, Egyptian, Sudanese, Ethiopian, Sri Lankan, Philippine, Indian and other workers. Some 800,000 foreigners work in the construction industry, factories, service stations or hospitals or as domestic workers. There is no restriction on their freedom of conscience, freedom of association, the individual use of national languages, freedom of worship or the celebration of religious or secular holidays. There is no obstacle to their access to the courts.

40. With regard to equal treatment before the courts, none of the provisions of the Code of Civil Procedure, the Code of Criminal Procedure or the Organization Act of the State Council, the administrative court, and no provision governing the various courts dealing with professional discipline authorizes discrimination among litigants on grounds of race, colour, descent or national or ethnic origin. In daily practice these courts operate according to the same principles.

41. None of the provisions of the Lebanese Criminal Code protecting the right to security of person and to protection against violence or bodily harm by public servants, individuals, groups or institutions permits any racial discrimination. The same applies to the above-mentioned codes of procedure and the Prison Organization Act. There has been no noteworthy breach of these principles to report.

42. It should also be recalled that article 14 of the Constitution stipulates that "Dwellings shall be inviolable. No one may enter therein except in the circumstances and in the manner prescribed by law".

43. The implementation of the provisions of article 5 (e), on political rights, is fully covered in this report under article 1. It should be recalled that Lebanon practices universal suffrage for general and municipal elections. It should also be recalled that under article 7 of the Constitution, "All Lebanese are equal before the law. They shall enjoy equal civil and political rights and be equally bound by public responsibilities and duties, without any distinction".

44. In relation to the right to freedom of movement and residence within the national territory, to leave the country and to return to it, the following should be stated.

45. In order to remedy the enforced geographical distribution of the Lebanese population according to individual religious affiliation following the armed conflict that ravaged the country for more than 15 years, paragraph (i) of the Preamble, added to the Lebanese Constitution on 21 September 1990, provides:

> "The national territory belongs to all Lebanese. Every citizen has the right to reside in any part of the territory and to benefit thereby in accordance with the sovereignty of the law. The (geographical) distribution of the population on the basis of any affiliation is prohibited, as are splitting, partition (of the territory) and settlement (of Palestinians)."

46. In accordance with this principle, and in order to allow the return of displaced persons to the original places of residence from which they were driven by the armed conflicts, and particularly by the bloody events of early September 1983 following the brutal withdrawal of Israeli troops from part of Lebanon's territory, a far-reaching programme is being implemented. It involves the organization of reconciliation meetings in villages where population displacement occurred, followed by the granting of subsidies for the reconstruction or restoration of dwellings.

47. With regard to the right to leave the country, however, one problem with which the Government must deal is the free return of certain foreign employees to their own countries. Some Lebanese employers "confiscate" their foreign employee's passport; having paid for the cost of the employee's travel from his country to Lebanon, for example, the employer wants to ensure that his employee will fulfil his contract for the minimum time the employer needs in order to recover his expenses. In most cases, the employee concerned goes to his country's consul in Lebanon to obtain a new passport in accordance with

the procedure applicable for a lost passport. It should, however, be stressed that this deplorable practice affecting foreign workers, which is covered by the general provisions of the Criminal Code, is not racially motivated.

48. The right to Lebanese nationality derives from the principle of ius sanguinis. However, in order to put an end to the many cases of statelessness affecting entire families who have been living on Lebanese soil since before 1920, the principle of grouped naturalization has been adopted. The naturalization decree of 1994 has, however, covered persons who already possessed other nationalities, and the total number of persons who have been naturalized in this fashion accounts for 8 per cent of the population.

49. The right to marriage was referred to under article 1, with regard to confessionalism. Marriages between members of different branches of the same religion, Muslim or Christian, are common, except for the Druze community, which practices endogamy. Mixed Muslim-Christian marriages, although generally discouraged by the family, are possible but relatively rare. With these exceptions and in normal situations, there is no obstacle to freedom of marriage.

50. Civil marriage does not exist in Lebanon, and there is no civil law governing such marriages. Any Lebanese who wishes to marry must observe his own community's religious form of celebration of marriage. As previously stated, civil marriages celebrated abroad are recognized by the Lebanese authorities. In the event of a dispute, the Lebanese civil courts will apply the law of the place where the marriage was celebrated. Foreigners may be married by the consul of their country if authorized to do so by their national law.

51. The President of the Republic recently proposed that a civil law should be drafted to govern personal status, marriage and family law, which would supplement the current religious laws and would apply to foreigners residing in Lebanon and also those Lebanese who so desired. This proposal has not, however, been favourably received.

52. Concerning the right to own property, article 15 of the Lebanese Constitution states that "The right to own property shall be protected by law. No person may be deprived of his property except on grounds of public utility in the cases laid down by law and upon payment in advance of fair compensation". The implementation of this article, and its translation into rules and regulations, have not been marred by any racial discrimination. The Real Property Act sets a limit on the size of property that may be acquired by non-Lebanese, but without distinction as to race.

53. All of the other rights under article 5 are granted by the laws and regulations, without any racial discrimination, with the sole reservation that domestic workers, of whom the overwhelming majority are foreigners, are not adequately protected as to working hours. This is certainly not a case of racial discrimination, but a practical difficulty in managing the working hours of employees who live and work in their employer's home on a permanent basis.

Article 6

54. The rights and freedoms of individuals and groups are established in Lebanese law without racial discrimination. Access to the courts is open to all without discrimination. Any individual or group may thus have recourse to the courts in order to secure observance of their rights and to obtain any compensation to which they may be entitled.

55. Furthermore, the International Convention on the Elimination of All Forms of Racial Discrimination forms part of Lebanese positive law by virtue of its automatic incorporation into domestic law. Any litigant may, therefore, invoke it to ensure observance of his rights.

56. In practice, there have been no noteworthy cases of violation of these principles.

Article 7

57. Because of the absolute priority which the Government currently has to give to national reconstruction and reconciliation, it has not been possible to adopt a major information campaign to combat the prejudices that lead to racial discrimination. Such prejudices are, however, rare.

UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/298/Add.3
15 October 1997

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Fourteenth periodic reports of States parties due in 1998

Addendum

Cameroon*

[12 August 1997]

* This report incorporates in a single document the tenth, eleventh, twelfth and thirteenth periodic reports of Cameroon due on 24 July 1990, 1992, 1994 and 1996 respectively. For the ninth periodic report of Cameroon and the summary records of the Committee's meetings at which the report was considered, see CERD/C/171/Add.1 and CERD/C/SR.880-881 respectively.

GE.97-18588 (E)

Introduction

1. This report incorporates the tenth, eleventh, twelfth and thirteenth periodic reports of Cameroon, submitted late, under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination. It principally covers the period from August 1990 to June 1997.

2. The report contains, inter alia, information on the legislative, administrative, judicial and other measures taken by Cameroon to implement the provisions of the Convention. It updates the previous reports in the light of the comments made by the members of the Committee on the Elimination of Racial Discrimination.

I. GENERAL

A. Land and people

1. Land

3. Cameroon is located in central Africa, at the far end of the Gulf of Guinea just above the equator, between 2° and 13° north and 8°, 30° and 16° east; it is triangular in shape and covers a total area of 475,000 km^2. It stretches 1,200 kilometres from Lake Chad to its southern border with the Republics of Equatorial Guinea, Gabon and the Congo, and the base of the triangle runs 800 kilometres from east to west, from the border with the Central African Republic to the Atlantic Ocean, where it has a 400-kilometre coastline. Cameroon is bordered to the west by the Federal Republic of Nigeria and to the north-east by the Republic of Chad.

4. Cameroon is characterized by an extreme diversity of natural environments:

Lush forest covers 42 per cent of the territory, representing an area of almost 20 million hectares;

The northern part of Cameroon, which has a tropical climate, is an area of savannah, made up of vast grasslands on the high Adamaoua plateau and of steppes in the extreme north.

The west and north-west, with a temperate climate, are mountainous regions whose ranges stretch from the south-west coast to the Mandara mountains in the extreme north of the country, where the 4,070 metre-high Mt. Cameroon is located.

2. People

(a) Ethnic and demographic features

5. In prehistoric times, Cameroon was apparently peopled mainly by Pygmies, who are considered as its authentic indigenous inhabitants. People of small stature (1.5 metres), the Pygmies lived from hunting and gathering, but began to practise agriculture, which led them to take up a settled existence.

Subsequently, the Sao, Kotoko, Sudanese, Peulh and Bantu peoples settled in Cameroon. All these migrations were brought to a halt by the European invasion (German, French and British).

6. Cameroon's population today comprises more than 230 ethnic groups defined on the basis of dialect, and divided into five major groups:

The Bantu, in the South, Littoral, South-West, Centre and South-East provinces comprise the Beti, Bassa, Douala, Yambassa, Maka, Kaka, Bakweri, Bali, and others;

The semi-Bantu, in the West and North-West provinces include the Bamileke, Bamoun, Tikar and Bali;

The Sudanese, in the Adamaoua, North and far North provinces, include the Mundang, Toupouri, Kotoko, Kapsiki, Mandara, Haoussa, Matakam, Bornouam, and Massa;

The Peulh, who inhabit the same provinces as the Sudanese;

The Choa Arab people living in the Lake Chad basin.

7. The Pygmy population, comprising the Baka and Bakola in the east and south and the Bagyeli and Bedzam in the Tikar plain, is estimated at about 50,000 persons.

8. Far from being a source of conflict and an obstacle to coexistence, this ethnic diversity is viewed by the authorities and the populations as a source of mutual enrichment, with the clearly understood and commonly accepted objective of using it as the foundation of a genuine nation where peace, understanding and justice prevail and in which each citizen is bound to feel at home everywhere.

9. Attaining this objective means eliminating all forms of discrimination, a goal that the Government pursues by means of the following programmes:

National integration;

Balanced regional development;

The equitable sharing of the fruits of growth;

Democratization and liberalization;

Protection of minorities and underprivileged groups.

(b) Socio-economic and cultural indicators

10. According to the most recent census, in 1987, Cameroon had a population of approximately 10,493,655, with a growth rate of 2.6 per cent between 1960 and 1992, and a population density of 24.4 inhabitants per square kilometre. In 1997, the population was estimated at 14,045,000, 6,921,000 of whom are males and 7,124,000 females.

11. The population includes 2,600,000 Catholics, 2,586,000 Muslims and 1,900,000 Protestants.

12. Cameroon's population may be broken down as follows:

By sex: 51 per cent females and 49 per cent males;

By age: 40 per cent aged under 15, 50 per cent aged from 16 to 64 and 10 per cent aged 65 or over;

By place of residence: approximately one third of the population is urban and two thirds rural.

Life expectancy is 59 years for women and 54.5 years for men.

13. The literacy rate, estimated at 68 per cent, is currently declining, although it is one of the highest in the central Africa subregion.

14. The following statistics are also worthy of note:

Per capita income:	approximately US$ 600 in 1996/97;
Gross domestic product:	CFAF 4 943 billion in 1996/97;
Inflation rate:	approximately 4 per cent in 1996/97;
External debt:	CFAF 3 756 billion in 1996/97;
Unemployment rate:	approximately 20 per cent of the population in 1996/97;
Mother tongues:	approximately 230;
Infant mortality rate:	63 per 1 000 in 1992/93;
Maternal mortality rate:	550 per 100 000 live births, and may be as high as 900 per 100 000 in the great north;
Fertility rate:	16.6 per 1 000 in 1992/93;
Crude death rate:	11.4 per 1 000 in 1993/97.

15. There are approximately 4 million foreigners from countries throughout the world living peacefully alongside the national population. As at 30 September 1996, moreover, there were approximately 46,694 refugees in Cameroon, including 44,907 Chadians, 669 Rwandans, 225 Burundians, 43 Zairians, 149 Liberians and 701 persons of various other nationalities.

B. Political structure

16. After the German, French and British colonial periods, Cameroon acquired national sovereignty on 1 January 1960.

17. The official languages are French and English.

18. Cameroon is a unitary, decentralized and democratic State with a semi-presidential regime. The executive, legislative and judicial branches are separate. Legislative power lies with a National Assembly (Parliament) consisting of 180 deputies. As a result of the 18 January 1996 constitutional reform, the Cameroonian justice system was transformed from a judicial authority into a real judiciary. Its ability to safeguard human rights and fundamental freedoms was thereby enhanced.

19. The country is divided for administrative purposes into 10 provinces, themselves divided into 58 departments which are subdivided into 269 arrondissements and 53 districts.

20. A multi-party system was instituted in 1990, since when there have been four elections. In 1992, six political parties took part in the legislative elections. In 1996, 36 political parties participated in the municipal elections; town councillors representing 15 of them were elected. Many town halls are administered by the opposition. In May 1997, 44 political parties took part in the legislative elections. Parliament is composed of deputies representing seven different political groupings.

21. Article 3 of Act No. 092/002 of 14 August 1992 on the terms of election of municipal councillors stipulates that:

> The ballot to elect municipal councillors shall be a mixed ballot with a simple majority system and a proportional system;
>
> Each list shall be drawn up so as to take into account the constituency's different sociological elements.

The Communes Act stipulates that mayors are to be elected from within the municipal council.

22. These provisions, which were implemented in the first multi-party municipal elections, held in 1996, are intended to ensure that small political groupings and minority ethnic groups are represented on municipal councils.

23. Likewise, article 5 of Act No. 91/20 of 16 December 1991, which sets the terms of election of deputies to the National Assembly, provides that they are to be elected under a list system, with no preferential vote or combining of lists; each legally recognized political party puts up a complete list with as many candidates from among its members as there are seats to be filled. The condition concerning the sociological composition of the list, applicable to municipal elections, likewise applies to the election of deputies. These provisions were also strictly enforced in the multi-party legislative elections held in 1992 and 1997.

C. General legal framework within which human rights are protected

1. Treaty-based safeguards

24. Cameroon has ratified numerous international human rights conventions or covenants and their additional protocols. We may cite the following:

The International Covenant on Civil and Political Rights and its Optional Protocol (ratified on 27 June 1984);

The International Convention on the Elimination of All Forms of Racial Discrimination (ratified on 24 June 1971);

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratified on 19 December 1986);

The International Convention on the Suppression and Punishment of the Crime of Apartheid (ratified on 1 November 1976);

The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (date of accession: 6 October 1972);

The 1953 Protocol Amending the Slavery Convention of 1926;

The Convention on the Elimination of All Forms of Discrimination against Women (signed on 6 June 1983, ratified on 23 August 1994);

The International Covenant on Economic, Social and Cultural Rights (ratified on 27 June 1984);

The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery;

The Convention relating to the Status of Refugees (date of succession: 23 October 1961) and the Protocol relating to the Status of Refugees (ratified on 19 September 1967);

The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others;

The Convention on the Rights of the Child (signed on 27 September 1990 and ratified on 11 January 1993);

The Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights.

2. Constitutional safeguards

25. Since it acquired sovereignty in 1960, Cameroon has been committed to upholding human rights and through the phases of its development as a State it has endowed itself with a constitution whose cornerstone is human rights.

26. Act No. 96-06 of 18 January 1996 amending the Constitution vested human rights with genuine constitutional status by incorporating into its preamble a specific reference to the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948, and to the African Charter on Human and Peoples' Rights, adopted by the Assembly of Heads of State and Government of the Organization of African Unity at its Eighteenth Session held in June 1981.

27. The Cameroonian people "proclaims that the human being, without distinction as to race, religion, sex or belief, possesses inalienable and sacred rights". It affirms its commitment to the fundamental freedoms enshrined in the Universal Declaration of Human Rights, the Charter of the United Nations, the African Charter on Human and Peoples' Rights and all relevant and duly ratified international conventions, and in particular its commitment to the following principles:

Everyone has equal rights and obligations. The State endeavours to assure for all its citizens the conditions necessary for their development;

The State shall ensure protection for minorities and preserve the rights of the indigenous populations, in conformity with the law;

Everyone has the right to settle anywhere and to move about freely, subject to the statutory provisions concerning public order, security and tranquillity;

No one shall be harassed because of his origin, opinions or beliefs in religious, philosophical or political matters, subject to respect for public order and morality;

The State is secular. The neutrality and independence of the State in respect of all religions are guaranteed;

Freedom of religion and freedom to practise a religion are guaranteed;

No one shall be subjected to prosecution, arrest or detention except in the cases and in the manner determined by the law, which shall not be retroactive;

The law ensures the right of everyone to a fair hearing before the courts;

Freedom of communication, freedom of expression, freedom of the press, freedom of assembly, freedom of association, freedom of trade unions and freedom to strike are guaranteed under the conditions fixed by the law;

The nation protects and promotes the family, the natural basis of human society. It protects women, young persons, the elderly and the disabled;

Everyone has the right and duty to work;

The State guarantees to all citizens of both sexes the rights and freedoms set out in the preamble of the Constitution.

3. Safeguards other than those of the Constitution

28. The implementation of the International Convention on the Elimination of All Forms of Racial Discrimination is guaranteed in Cameroon by judicial or administrative bodies which apply national instruments for the protection of human rights, including legislative or regulatory instruments, and in particular the Penal Code, the Code of Criminal Investigation, legislation relating to the press, political parties, associations and various freedoms.

29. The Penal Code provides for and penalizes offences against the fundamental rights enshrined both in the Convention and in the Constitution, such as the various property rights, and the rights to individual physical and moral integrity, as well as all forms of violations of the right of persons to freedom and tranquillity.

(a) Foremost among the competent institutions responsible for enforcing the various protective instruments referred to above is the judiciary: its mission is to ensure respect for the rights of all citizens and residents, to protect their person, property and honour, and to settle any litigation between them.

The judiciary comprises the Supreme Court, the Courts of Appeal and the ordinary courts. It is independent from the executive and legislative branches. In performing their judicial functions, judges are answerable only to the law and to their conscience.

Moreover, Cameroon is a party to the Optional Protocol to the International Covenant on Civil and Political Rights, under which individuals may bring complaints of violations of the rights enshrined in the Covenant provided all domestic remedies have been exhausted (see the Abdoulaye Mazou and Albert Mukong cases).

The judicial police are authorized to investigate major and minor offences, to gather evidence and to bring offenders before the courts responsible for punishing them. The Ministry of Territorial Administration has specific responsibility for questions relating, inter alia, to freedom of association and expression.

(b) Anyone who alleges that his rights have been violated may set the matter before the criminal courts, if the violation comes under the Penal Code or a provision of the special criminal legislation, and may bring criminal indemnification proceedings. He or she may also sue the person responsible for the injury in the civil courts to obtain redress in the form of damages.

(c) The Cameroonian Constitution guarantees the rights set forth in the international human rights instruments. They include equality among citizens without distinction as to race, sex or religion.

(d) The human rights instruments are incorporated into domestic law through ratification. Pursuant to article 43 of the Constitution, the

President of the Republic negotiates and ratifies international treaties and agreements. Those which concern the law are submitted for approval by Parliament, through legislation, prior to ratification.

(e) In conformity with article 45 of the Constitution, international treaties or agreements which have been ratified take precedence, as soon as they have been published, over the law. They may then be invoked before the courts or administrative bodies. However, in order for criminal provisions to be applicable, they must be supplemented in the national legislation by appropriate penalties. Thus, Act No. 97/009 of 10 January 1997 incorporated the offence of torture into the Cameroonian Penal Code by laying down penalties for such criminal actions.

(f) A national committee on human rights and freedoms was set up by decree No. 90/1459 of 8 November 1990. The Committee, which has legal personality, comprises a Chairman, who is an independent figure, and 20 members, 3 of whom represent the administration (1 from the Ministry of Justice and 2 representing the Supreme Court and judges) and persons representing a number of representative associations from the sphere of human rights. Numerous non-governmental organizations supplement and further the Committee's work. Efforts are made through ad hoc seminars and publications to make the public concerned and the competent authorities more familiar with the human rights instruments.

II. INFORMATION IN RELATION TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

30. Cameroon prohibits and punishes all acts and practices by individuals, groups or organizations which result in discrimination.

31. Article 1 of the Penal Code stipulates that the criminal law applies to everyone. This article establishes the principle of the equality of all before the law. Only the law can introduce derogations from this principle through an exception adding to or detracting from the general principle. For example, the provisions of article 80 of the Penal Code benefiting minors take precedence over the provisions of article 1 of the Code. Similarly, a pregnant woman cannot be sentenced to a prison term; a woman who has just given birth cannot serve a sentence until six weeks following the delivery.

32. Before taking up their duties, judges take an oath which prohibits them from showing any favouritism in their decisions.

33. Acts of discrimination are punished. For example, article 242 of the Penal Code establishes a prison term of one to two years and a fine of CFAF 5,000 to CFAF 500,000 for any person who refuses another access to a public place or to an occupation on account of his race or religion. This provision is intended by the State to discourage all forms of discrimination.

34. Penalties are laid down for offences committed by persons responsible for enforcing human rights (police, army, judiciary). In this connection, article 132 bis of the Penal Code, introduced by Act No. 97/009 of 10 January 1997 amending certain of the Code's provisions, stipulates:

"1. Anyone who involuntarily causes the death of another through torture shall be liable to life imprisonment.

"2. The sentence shall be imprisonment for 10 to 20 years when the torture causes the victim to be permanently deprived of the use of all or part of a member, organ or sense.

"3. The sentence shall be imprisonment for 5 to 10 years and a fine of CFAF 100,000 to 1 million when the torture causes the victim to become ill or unable to work for a period of more than 30 days.

"4. The sentence shall be imprisonment for two to five years and a fine of CFAF 50,000 to 200,000 when the torture causes the victim to become ill or unable to work for a period equal to or less than 30 days, or to undergo mental or psychological pain or suffering."

35. Cameroon has also taken numerous steps to promote equal enjoyment of rights in the following areas:

Promotion and compulsory nature of consent to marriage for both future spouses;

Possibility for a wife to practise a different profession from that of her spouse without prior authorization from the spouse and to enjoy the fruits of her labour;

Recognition of the right of both boys and girls to inherit from their parents;

Consideration of the surviving spouse in the succession of the predeceased spouse;

Freedom for wives to leave the territory, pursuant to the repeal, by Act No. 90/043 of 19 December 1990, of the marital authorization requirement.

36. Measures are also taken to achieve equality of the sexes. Cameroonian women have access to employment in all areas:

Public service: 32.6 per cent of State personnel are women. Two women are permanent cabinet secretaries;

Justice: one woman is a Supreme Court counsellor and another is President of the Court of Appeal;

Government: there are two women ministers;

National Assembly: there are nine women deputies as of the latest legislative elections, held on 17 May 1997;

Women represent 52.8 per cent of the tertiary sector; the Chief Executive Officer of the National Investment Corporation, which controls all the enterprises in the State portfolio, is a woman;

Women represent 43.8 per cent of the medical and social sector.

There is equal remuneration in all sectors.

37. According to the Preamble to the Cameroonian Constitution of 18 January 1996, the State ensures the protection of minorities and safeguards the rights of indigenous populations. Thus Cameroon seeks to ensure the appropriate development and protection of certain groups, in order to enable them fully to exercise their rights under conditions of equality.

38. The Government basically seeks to develop in these population groups a sense of belonging to the national community, such an awareness being a necessary stage in their socio-economic integration. For example, measures are being taken on behalf of the nomads in northern Cameroon. The goal is to introduce them to agriculture and stock-raising. Research is being conducted to find plants for cattle feed that are resistant in all seasons.

39. State action is also aimed at the Pygmies in the eastern and southern provinces, who are covered by the "Socio-economic integration of the Baka/Bakola" project. The strategy is to:

Stabilize the Pygmies in their camps;

Introduce them to own-account agricultural work;

Improve and humanize relations between the Pygmies and their Bantu neighbours;

Build health centres and introduce health and sanitation measures;

Enrol Baka/Bakola children in schools (construction of schools in the camps). In 1992 there were more than 1,500 pupils at the primary level and about 15 at the secondary level. The State provided them with special academic assistance, which amounted to an estimated CFAF 245 million between 1986 and 1994.

40. State action in this area is supported by missionaries and development assistance volunteers from the Netherlands.

41. Special measures are also being taken for the benefit of the Pygmies. For example, Pygmies are admitted to the teacher training schools in the eastern part of the country on the basis of a certificate of primary and basic education, while a higher level (brevet d'études) is required of the other population groups. The purpose of these special measures is to provide the members of this vulnerable group with the protection needed to safeguard the enjoyment and exercise of their rights and fundamental freedoms under conditions of equality. In 1992 there were eight Baka/Bakola teachers, two nursing auxiliaries and two agricultural instructors. Cultural groups and football teams have also been set up.

42. International (bilateral and multilateral) cooperation includes studies aimed at understanding the philosophy of life of these groups in order to provide them with appropriate assistance for their internal development while

emphasizing the preservation of their cultural identity. A support project for Pygmy self-advancement was set up with this in mind. Project RAF (Research, Action, Training), supported by a French non-governmental organization, the African Institute for Economic and Social Development - African Training Centre (IF), seeks to help the Pygmies organize themselves in such a way as to enable them to express themselves and be heard, achieve recognition as a minority people and find a path of development that takes their culture into account.

43. Project RAF involves the pygmies in its activities. The different Pygmy groups are encouraged to become involved in the research, with the support of the staff of the projects assisting them. The goal sought is to enable them to express themselves about what they are, how they view their environment and how they analyse their role in this context. The research should lead to actions which they have selected themselves as priorities for their future.

44. The African Institute for Economic and Social Development - African Training Centre (IF) is trying in this way to support the Pygmies in seeking development that is suited to them and will enable them to preserve basic values of their culture, but will also help them emerge from their marginality and establish a more comfortable place for themselves in Cameroonian society.

45. Lastly, the Government of Cameroon pays special attention to disabled people. A 1983 law and a 1990 decree implementing the law guarantee special rights for the disabled. Both instruments make disabled people's access to health care, education, vocational training, employment, sports and leisure an obligation deriving from national solidarity. The following preferential measures are provided for disabled children:

Age exemption for admission to schools at all levels;

Partial or total payment of public transport fees;

Encouragement for the establishment of associations and for community action aimed at the achievement of socio-economic autonomy (establishment of cooperatives).

Article 3

46. Apartheid, as referred to in article 3, is completely unknown among the population of Cameroon, a multi-ethnic country. At the international level, Cameroon condemned the practice of apartheid previously existing in South Africa, which officially ended with the introduction of equal voting rights.

Article 4

47. Press articles disseminating ideas based on racial superiority or hatred or inciting racial discrimination or other discriminatory acts are regarded as undermining public order or decency. Such publications are prohibited, and the competent court may order the press organ to be seized; it also has the power to ban the organ. The decision to seize or ban the organ may be appealed.

48. If the press article in question is insulting to a race or religion to which several citizens or residents belong, the author is liable to a prison term of six days to six months and a fine of CFAF 5,000 to 20,000,000. If the offence is committed for the purpose of inciting hatred or scorn among citizens, those penalties are doubled (Penal Code, art. 241).

49. Similarly, any association or organization whose activities encourage racial discrimination is undermining public order, and its activities may be suspended by the Minister of Territorial Administration for a period not to exceed three months (Act No. 90/053 of 19 December 1990 concerning freedom of association).

50. The only legal provisions that stipulate prison terms or fines for acts that may be qualified as "discrimination" are articles 241 and 242 of the Penal Code. These provisions are seldom applied, however, as such behaviour is very rare and contrary to the hospitable nature of the people.

Article 5

51. The Constitution, Penal Code, Code of Criminal Investigation, the Civil Code and Code of Civil Procedure provide for equal access to the courts for all citizens. In this connection, there is a procedure which enables destitute people to obtain legal aid to defend their rights in court.

52. Regarding the right to security of person and protection by the State against violence or bodily harm inflicted by public officials, article 132 of the Penal Code establishes a prison term of six months to five years for public servants guilty of violence against others. Similarly, article 132 bis of the Penal Code punishes as "torture" any act by which severe pain or suffering, whether physical, mental or psychological, is intentionally inflicted on a person, for such purposes as obtaining a confession from him or a third person, by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

53. Where political rights are concerned, any Cameroonian citizen who is not under a legal disqualification and who meets the age and morality requirements is entitled to stand for election or vote on the basis of universal and equal suffrage (Act No. 91/020 of 16 December 1991 establishing the conditions for election of deputies to the National Assembly, as amended by the Act of 19 March 1997, Act No. 92/002 of 14 August 1992 on the conditions for election of municipal councillors and Act No. 92/10 of 17 July 1992 establishing the conditions for election of the President of the Republic and alternates).

54. The Constitution and specific laws furthermore guarantee many other civil rights, including:

The right to settle in any place and to move about freely. Freedom of movement is provided for in Act No. 90-043 of 19 December 1990 on the requirements for entering, residing in and leaving Cameroon.

Freedom to come and go is therefore guaranteed by law and can be restricted only under a state of emergency, proclamation of which is governed by strict rules. A state of emergency has been proclaimed only once since 1990, and in only one province, because of serious disturbances of public order. The restriction lasted for a period of six months.

The right to leave and return to Cameroon is also guaranteed by law;

The right to marriage and choice of spouse (guaranteed by the Civil Code);

Freedom of worship and freedom to practise one's religion;

The right to freedom of expression, guaranteed by the Act on the mass media;

The right to freedom of assembly and association, guaranteed by Act No. 90-55 of 19 December 1990 and Act No. 90-53 of 19 December 1990, as well as by Act No. 90-56 of 19 December 1990 concerning political parties, article 9 of which states:

> "Political parties shall be established and conduct their activities freely in the framework of the Constitution and this Act. No political party can be authorized if it undermines national and territorial integrity, the republican form of government, national sovereignty or national integrity, in particular by any kind of discrimination based on tribes, provinces, linguistic groups or religious denominations."

According to article 2 of the Labour Code, the right to work "shall be recognized as a fundamental right of each citizen; the State shall make every effort to help citizens find and remain in employment".

The right to education and training and the right to equal participation in cultural activities are guaranteed, as is the right of access to any place or service intended for use by the general public: article 242 of the Penal Code sets penalties for anyone who refuses another access to a public place.

The right to form and join trade unions is guaranteed by Act No. 92/007 of 4 August 1992 establishing the Labour Code, pursuant to which "the law recognizes the right of workers and employers, without restrictions of any kind and without need of prior authorization, freely to form trade unions for the purpose of the study, defence, development and protection of their interests, particularly their economic, industrial, commercial and agricultural interests, as well as for the social, economic, cultural and moral advancement of their members. Trade unions are forbidden from conducting any activities that are not conducive to the promotion of these objectives".

Article 6

55. Any person who has suffered injury as a result of any act whatsoever, including an act of discrimination, has the right to apply to the competent court for compensation. The principle of two hearings is generally accepted

in Cameroonian law. Anyone who is not satisfied by the decision of the court of first instance is entitled to have the same matter re-examined by the court of appeal for example, in the Kago Lele case, concerning an entry in the registry of voters, and in the Mongo Beti case, concerning a candidature for the National Assembly, the individuals in question both won their cases. Violations of the law are also punished by the Supreme Court.

56. As discrimination based on race or religion is seldom found in the Cameroonian social mentality, no cases involving discrimination, in particular based on article 242 of the Penal Code, which makes discrimination an offence, are brought before the courts; this explains the absence of case law in the matter.

Article 7

57. The primary, secondary and higher education curricula include courses on the United Nations and its role. The higher the educational level, the more advanced is the course. In the law faculties, in particular, the concept of human rights is taken as the basis for several courses covering equality among individuals, relations between the State and citizens, and protection of the individual.

58. In the cultural sphere, cultural associations are made up of members of several ethnic groups and therefore of several cultures. Their activities, which include plays, dances and other events, are aimed at fostering cross-national and cross-cultural understanding and friendship among the ethnic groups. The same groups perform Bamileke, Beti, Matakam and other dances with equal skill.

59. Information on racial discrimination is not a necessity in Cameroon, in as much as the cultures of the various ethnic groups which make up the population attach priority to welcoming "foreigners", who are easily accepted and integrated. Every Cameroonian has the opportunity to settle in the place of his or her choice in Cameroon, and interethnic marriages are very common.

60. Regarding human rights in general, the National Committee on Human Rights and Freedoms, one of whose goals is to educate the public about the human rights instruments by all means possible, collects and distributes international documentation on human rights and freedoms. As part of its activities, the Committee has organized human rights training and education seminars:

From 21 to 24 September 1993, a training seminar was held for the members of the National Committee on Human Rights and Freedoms;

From 28 to 31 March 1995, a training seminar was held for administrative and law-enforcement personnel at Bamenda;

In 1996, judges, lawyers, notaries and clerks attended a three-day human rights training seminar. The seminar, held at Mbalmayo, was organized by the National Committee on Human Rights and Freedoms, with financial assistance from the Government of the United States.

61. In addition, many activities are held annually in Cameroon on Human Rights Day (10 December). The media usually react favourably and cooperate in raising the people's awareness of human rights issues and United Nations activities in this area.